

# STATEMENT OF FINDINGS

## HUDSON LANDING DEVELOPMENT PROJECT

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ISSUED BY:

CITY OF KINGSTON PLANNING BOARD,

AS LEAD AGENCY PURSUANT TO  
THE NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT

DATE OF FINDINGS:

APRIL 13, 2009

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## TABLE OF CONTENTS

	<u>PAGE</u>
I. NAME OF ACTION. ....	1
II. LOCATION. ....	1
III. APPLICANT. ....	2
IV. AGENCY JURISDICTION & SEQRA CLASSIFICATION. ....	2
V. DATE FGEIS FILED. ....	3
VI. PROJECT HISTORY, EVOLUTION AND DESCRIPTION. ....	3
A. Project History. ....	3
B. Project Evolution. ....	4
C. Description of Current Project Plan. ....	5
VII. SEQRA PROCESS. ....	7
A. SEQRA Record. ....	7
B. Lead Agency Team of Consultants. ....	7
C. Coordination of Review & Community and Governmental Outreach Efforts. ...	8
D. Public Participation. ....	9
VIII. SITE-SPECIFIC & PROJECT-SPECIFIC FACTS, IMPACTS, MITIGATION & FINDINGS. ....	10
A. Positive Impacts. ....	11
B. Visual Resources. ....	12
C. Wastewater Collection. ....	18
D. Wastewater Treatment. ....	20
E. Public Services and Fiscal Impacts. ....	26
F. Stormwater. ....	28
G. Site Grading. ....	30
H. Water Resources. ....	31
I. Hydrogeologic Resources. ....	34
J. Wetlands and Wildlife. ....	38
K. Traffic. ....	40
L. Land Use Planning and Zoning. ....	45
M. Open Space, Public Access and Recreation. ....	49
N. Regional Transportation. ....	51
O. Cultural and Historic Resources. ....	53
P. Noise. ....	55
Q. Air Quality. ....	57
R. Cumulative, Secondary and Growth-Inducing Impacts. ....	59
IX. CONSISTENCY WITH STATE AND LOCAL COASTAL POLICIES. ....	59
X. PARAMETERS FOR FUTURE SEQR REVIEW. ....	61
XI. IMPLEMENTATION. ....	61
XII. SUMMARY OF FINDINGS AND CONDITIONS. ....	62
XIII. CERTIFICATION OF FINDINGS TO APPROVE, FUND OR UNDERTAKE. ....	63

### EXHIBITS

- A. PROPOSED TNDOD ZONING AMENDMENT
- B. PROPOSED REGULATING DESIGN MANUAL (Table of Contents)
- C. RECOMMENDATION OF CONSISTENCY

**NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT  
STATEMENT OF FINDINGS**

**HUDSON LANDING**

Pursuant to Article 8 [Environmental Quality Review Act (SEQRA)] of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the City of Kingston Planning Board makes the following findings with regard to the Hudson Landing development project.

Section 6 NYCRR 617.11 of the SEQRA Regulations requires that no Involved Agency shall make a decision on an action that has been the subject of a Final Environmental Impact Statement (FEIS) until such time as the Agency: makes a written Findings Statement concerning the facts and conclusions of the Draft EIS (DEIS) and FEIS that the Agency relied upon to support its decision; has weighed and balanced relevant environmental impacts with social, economic and other considerations; and has provided a rationale for its decision. The Planning Board of the City of Kingston has prepared these findings related to the significant environmental impacts and effects identified in the DGEIS and FGEIS prepared for this project to meet this standard.

The City of Kingston Planning Board, as Lead Agency, has taken a hard look at the potential adverse environmental impacts of this action. These findings are the result of that hard look and this Board's balancing of the environmental and economic concerns, consistent with social, economic and other essential considerations as required by SEQRA. These findings will demonstrate that the potential adverse environmental impacts identified in the DGEIS, FGEIS and during the SEQRA review process have been avoided or minimized to the maximum extent practicable.

**I. NAME OF ACTION**

The name of the proposed action is "Hudson Landing."

**II. LOCATION**

The project site extends from the western shore of the Hudson River on the east to NYS Route 32 on the west. Most of the 508 acre project site is located in the City of Kingston. A portion of the northern end of the site extends into the adjacent Town of Ulster. Both the City of Kingston and Town of Ulster are located in the County of Ulster and State of New York.

The specific tax parcels included in the site are as follows:

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**City of Kingston Parcels**

- 48.20-1-1
- 48.20-1-2
- 48.20-1-3
- 48.16-5-1
- 48.16-5-6
- 48.16-5-7
- 48.16-6-1.1
- 48.16-6-3
- 48.16-6-4
- 48.16-6-5
- 48.84-1-1
- 48.84-1-3

**Town of Ulster Parcels**

- 48.16-3-6.1
- 48.16-3-6.2
- 48.16-3-7
- 48.16-3-8
- 48.16-3-9
- 48.16-3-10
- 48.16-3-11
- 48.16-3-12

**III. APPLICANT**

Kingston Landing Development, LLC  
One Executive Boulevard  
Yonkers, New York 10701  
Contact: Daniel P. Simone, Director of Engineering & Planning

**IV. AGENCY JURISDICTION & SEQRA CLASSIFICATION**

The City of Kingston Planning Board is the Lead Agency pursuant to SEQRA for the environmental review of this action. This action was classified by the Lead Agency as a Type I action under SEQRA. The City of Kingston Planning Board has jurisdiction over this project because the Applicant has applied, or will in the future apply to the City Planning Board for the following approvals in connection with this application:

- Site plan approval
- Special permit approval
- Subdivision plat approval

In addition, approvals will be required from the Kingston Common Council the Town of Ulster Town Board and the Town of Ulster Planning Board.



## **V. DATE FGEIS FILED**

The Final Generic Environmental Impact Statement (FGEIS) was filed with the Lead Agency on December 18, 2008, and distributed in accord with the 6 NYCRR Part 617 to all involved agencies.

## **VI. PROJECT HISTORY, EVOLUTION AND DESCRIPTION**

### **A. Project History**

The subject action was initiated by the applicant (Kingston Landing Development, LLC) on December 23, 2002, when it submitted an application to the City of Kingston Planning Board for approval of a residential development of 2,182 residential units plus 251,000 square feet of commercial space and a 200 slip marina. The site has an extensive history of industrial activity including brick manufacturing, cement mining and ice storage. It has approximately one mile of Hudson River frontage and varied interior resources ranging from rock quarries to upland forests.

The Kingston Planning Board established itself as lead agency for environmental review of the proposed project under the State Environmental Quality Review (SEQRA) Act on March 10, 2003. The Board approved a Final Scope for the required Draft Generic Environmental Impact Statement (DGEIS) on July 9, 2003 and (after review of several drafts) accepted the DGEIS for public review and comment on July 18, 2005.

Due to the size and scope of the proposed project, and the multi-phased development program, the lead agency determined that the environmental review should take the form of a generic environmental impact statement (GEIS). The GEIS allows for consideration of potential environmental affects, both on-site and off-site, in sufficient detail to evaluate the significance of possible impacts without the need for premature preparation of detailed plans.

A Final Generic Environmental Impact Statement (FGEIS) was approved by the City of Kingston Planning Board on December 18, 2008. The FGEIS describes revisions to the originally proposed plan designed to mitigate impacts identified during review of the DGEIS for the project. The revised plan, consisting of 1,682 housing units and 78,500 square feet of commercial space, is based on principles of "Traditional Neighborhood Development" which are intended to create compact urban communities incorporating the features and design characteristics of existing settlements throughout the region.

## **B. Project Evolution**

The revised plan, which formed the basis for the FGEIS, evolved during the extensive DGEIS review process. The Lead Agency's consultant team, involved and interested agencies as well as the general public submitted thoughtful comments and, in some cases, put forth specific alternatives for consideration. The Lead Agency's consultant team prepared exhaustive reviews of each area of potential impact and met jointly to exchange views and coordinate inter-disciplinary responses. The City Planner and the consultant team recommended mitigation measures and project redesign to the applicant who responded with several significant revisions to the plan in terms of scale, design theme and reduction in site disturbance.

As a result of the SEQRA review process, extensive and significant modifications and changes were made to the project. The modifications and changes made to the project were evaluated in the FGEIS and will be addressed individually by topic below in this Findings Statement.

The major revisions to the plan for Hudson Landing include reduction of 500 housing units (23%), 172,500 square feet of commercial floor area (69%) and elimination of the marina. The area of the site to be developed has been reduced from 216 acres to 155 acres which represents disturbance of only 30% of the total site area and preserves the most important natural resources of the site.

The revised plan is significantly different than the original plan in scale, form and distribution of development. In terms of macro changes, the revised plan now consists of 1,682 housing units and 78,500 square feet of commercial space. As a result, only 155 acres of the 508 acre site will be disturbed by development as opposed to 216 acres under the original plan. Only about 45 acres of the 258 acres of forest lands on the site will be disturbed.

As was requested by a significant portion of the public during the public comment period, the revised plan is now based on principles of "Traditional Neighborhood Development" which are intended to create compact urban communities incorporating the features and design characteristics of existing settlements throughout the region. This Traditional Neighborhood Development Plan consists of two separated urban development cores along the riverfront. No development is proposed in the upland portion of the site except along the access road to NYS Route 32. While the original plan consisted of a relatively homogeneous, suburban type development, the new plan is based on historic development patterns along the Hudson River which consist of concentrated, mixed use neighborhoods and villages separated by open space, estates and much lower density development. The two urban villages will be separated by at least 1,000 feet of open space and each will have a mixed use urban center with convenient shops and services with apartments above. Higher density housing will surround the centers and transition to lower density housing on the neighborhood

perimeter which will be surrounded by open space. The villages will include local pedestrian scaled streets with sidewalks to promote safe pedestrian circulation and parking will be dispersed in small lots or garages, as well as on-street parking.

As a result of the modifications to the plan, all of the significant environmental impacts of the original plan have been eliminated or mitigated to the maximum extent practicable.

**C. Description of Current Project Plan**

The FGEIS contains an exhaustive project description and therefore this findings statement will only provide a summary. Hudson Landing has been designed as a "Traditional Neighborhood Development" (TND) which incorporates mixed uses along with a variety of housing options based upon the principles of "Smart Growth" to reduce the effects of sprawl and provide a traditional, sustainable community. The community has been designed to incorporate two (2) distinct neighborhoods, the North Cove Neighborhood in the northern portion of the property and the South Cove Neighborhood at the southern end. The two (2) neighborhoods will be separated by a central 1000 foot wide, open space buffer to break up the visual massing of the project from the Hudson River and points on the eastern shore. A new zoning district - Traditional Neighborhood Development Overlay District (TNDOD) - will be added to the City of Kingston and Town of Ulster zoning laws to provide procedures and regulations for this development. The proposed zoning amendments are attached as Exhibit A.

The current plan consists of a total of 1,682 dwelling units which include a mix of Single Family detached homes, Townhouses, Stacked Townhouses, Condominiums, Apartments and Live/Work Townhouses. In addition, the plan incorporates up to 78,500 square feet of commercial space consisting of Neighborhood Retail which will be integrated with residential uses around the various community greens and plazas, Live/Work commercial space within a traditional townhouse setting, waterfront restaurant & retail space and highway commercial space at the project entrance at Route 32.

The plan also incorporates approximately 350 acres of open space, a majority of which will be publicly accessible. The major components of the open space plan consist of a public waterfront promenade along the projects entire frontage on the Hudson River consisting of paved surface, seating areas, Canoe/kayak launch areas, and ample public parking. In addition, a central core open space area is provided which will also have public parking and picnic areas. Lastly, an extensive upland open space area will be developed consisting of miles of hiking trails and scenic overlooks. As part of the upland trail system, the project will include the construction of a new 2000 sq. ft. Environmental Education Center which will be established to promote environmental and education programs for the City and the Town.

Due to the sites extensive industrial past, the project will incorporate the preservation of two (2) historic structures on the site, the "Mule Barn" and "Brick Smoke Stack", both relics from the Shultz Brickworks which once occupied the northern portion of the site within the Town of Ulster. The mule barn building will be converted into a community center and Historical Museum which will showcase the varied and extensive industrial history of the site. The smokestack will be preserved and protected and become the focal point for a new waterfront park. In addition, the entire promenade will include informational kiosks at strategic locations to inform the public of important elements which occupied the shoreline throughout history.

Development of the project will be governed by an overall project "Regulating Design Manual" which will guide detailed site development and building development in keeping with the principles of Traditional Neighborhood Development as well as historical development patterns and architecture of the Hudson Valley region. The Regulating Design Manual is a very detailed document with extensive illustrations. A summary of its provisions is demonstrated by the Table of Contents of the Regulating Design Manual which is attached as Exhibit B.

The project will be developed in phases, subject to the natural absorption of new homes and commercial space into the market place. On-site and off-site infrastructure improvements will also be phased with construction of the community to provide required mitigation as the project develops. Full completion of the project is estimated to take from 15 – 20 years based upon economic and market conditions.

Phase 1 of the development will take place in the North Cove Neighborhood and will include approximately 388 residential units and 21,000 sq. ft. of commercial space. Required infrastructure improvements will be constructed to accommodate this phase as discussed in detail in subsequent sections of this findings statement. This phase will consist of development in both the Town of Ulster and the City of Kingston and will include construction of the main project entrance from Route 32. It is anticipated that Phase 1 will be divided into smaller sales phases to accommodate construction and absorption of residential and commercial space in pace with market demands. Subsequent phases will likewise be apportioned to accommodate market demands.

Phase 2 of the development is anticipated to occur again within the North Cove Neighborhood, predominantly within the Town of Ulster and consist of an additional 334 residential units and 14,000 sq. ft. of commercial space.

Phase 3, which will complete the North Cove Neighborhood, is located within the City and the Town and consists of 479 residential units and 29,500 sq. ft. of commercial space.

Phases 4 and 5 which include the entire South Cove neighborhood will complete the project with an additional 491 residential units and 14,000 sq. ft. of commercial space.

While the project has been divided into phases to properly gauge impacts and required mitigation, it is also understood that development of this project will be primarily driven by market demands and that phasing will be adjusted accordingly throughout the development process and that construction of improvements will most likely overlap phases and occur simultaneously at times to provide needed improvements for subsequent phases. Project phasing will be continuously reviewed and updated by the City and the Town as the project proceeds.

## **VII. SEQRA PROCESS**

In undertaking the required SEQRA review process, this Board complied with the full measure of public participation and notification requirements set forth in 6 NYCRR Part 617.

### **A. SEQRA Record**

Date of Applicant's application:	December 23, 2002
Classification of Action as Type I and initiation of coordinated review:	January 13, 2003
Designation of City of Kingston Planning Board as Lead Agency:	March 10, 2003
Issuance of Positive Declaration as Determination of Significance:	March 10, 2003
Adoption of Final Scope:	June 9, 2003
Acceptance of DGEIS:	July 18, 2005
Adoption of FGEIS:	December 18, 2008

### **B. Lead Agency Team of Consultants**

The Lead Agency was assisted in conducting the review by the City's own professional Planning Department, of which Suzanne Cahill is the Planning Director. Due to the size and complexity of this project, the Lead Agency also engaged a team of outside consultants. Among other things, members of the Lead Agency's consultant team

variously assisted the Lead Agency with regard to the following: conduct of the SEQRA review, evaluation of documents submitted by the Applicant, identification of significant potential adverse impacts, evaluation of comment received from involved agencies, interested agencies and the public and the drafting of the first part of the FEIS and this Findings Statement. The members of the Lead Agency's consultant team are as follows:

Shuster Associates, Inc. (planning and zoning)  
Environmental Simulation Center and George M. Janes & Associates (visual resources and planning)  
Praetorius & Conrad, PC (engineering)  
Malcolm Pirnie, Inc. (Engineering, waste water and waste water treatment)  
Badgon Environmental (terrestrial and aquatic ecological resources)  
Creighton Manning Engineering, LLP (traffic, transportation, noise and air)  
Grant & Lyons, LLP (legal)  
Hartgen Archeological Associates, Inc. (Historic and cultural resources)  
Fairweather Consulting (fiscal impact and public resources)  
Ecosystems Strategies, Inc. (geology and hydrogeology)  
Balliere Consulting (design guidelines)

**C. Coordination of Review & Community and Governmental Outreach Efforts**

The SEQRA review included the identification of, and coordination with, involved agencies. The Lead Agency also established an extensive and inclusive list of interested agencies to assure that information and documents about the review would be widespread and complete. The involved and interested agencies are listed below:

**1. Involved Agencies**

City of Kingston Common Council  
City of Kingston Board of Public Works  
City of Kingston Zoning Board of Appeals  
Town of Ulster Town Board  
Town of Ulster Planning Board  
Town of Ulster Zoning Board of Appeals  
Ulster County Planning Board  
Ulster County Department of Public Works  
Ulster County Department of Health  
New York State Department of State  
New York State Department of State Division of Coastal Resources  
New York State Department of Environmental Conservation Region 3  
New York State Department of Environmental Conservation Division of Environmental Permits  
New York State Department of Transportation

New York State Office of General Services  
New York State Office of Parks, Recreation and Historic Preservation  
United States Army Corps of Engineers  
United States Department of the Interior Fish & Wildlife Service

**2. Interested Agencies**

City of Kingston Water Board  
City of Kingston Historic Landmarks  
City of Kingston Heritage Area Commission  
City of Kingston Consolidated School District  
Town of Ulster Sewer Department  
Town of Ulster Highway Department  
Town of Ulster Water Department  
Ulster County Department of Public Works  
Ulster County Industrial Development Agency  
Ulster County Environmental Management Council  
Dutchess County Planning Department  
Town of Rhinebeck Town Board  
Scenic Hudson  
Hudson River Sloop Clearwater  
Riverkeeper  
Central Hudson Gas & Electric  
Friends of the Rondout  
Hudson River Heritage

**D. Public Participation**

The review also included an extent of public and community participation which far exceeded SEQRA's requirements. Copies of the DGEIS were circulated to all Involved and Interested Agencies. As required by the SEQRA regulations, copies of the DGEIS were posted on an internet web site and made available for public review. Written copies of the DGEIS were available for public review at the following locations:

City of Kingston Planning Department  
City of Kingston Library  
Town of Ulster Library  
Ulster Community College Library  
Starr Library (Rhinebeck, NY)  
Morton Memorial Library (Rhinecliff, NY)

At the time of the acceptance of the DGEIS, the period for public comment, which began on July 18, 2005, was scheduled to end on October 17, 2005. At the request of various interested agencies and the general public, the Lead Agency extended the public

comment period several times and finally concluded the public comment period on January 17, 2006. Thus, the public comment period was six months in total.

While only one public hearing was scheduled at the time the DEIS was accepted, the Lead Agency eventually expanded the number of public hearings to four which were held in 2005 on September 14, October 12, November 16, and December 14.

During the public comment period, the Lead Agency received over 1,400 written comments in addition to the oral testimony received at the four public hearings.

Although not required under SEQRA, the Lead Agency determined that the public review process would benefit by giving interested members of the public an opportunity to ask questions and exchange views with the Applicant, its consultants, and the consultants for the Lead Agency. Consequently, four separate sessions, called "focus sessions", were held with each devoted to areas of significant concern as gleaned from the public comments received. The focus sessions were held as follows:

<u>Session Topic</u>	<u>Date of Session</u>
Traffic Impacts	June 6, 2007
Fiscal Impacts	June 7, 2007
Waste Water Treatment	June 19, 2007
Visual Impacts	June 27, 2007

Each focus session was approximately 2 hours in duration and was conducted in an informal setting, attended by approximately 20-40 persons and allowed for a free discussion, exchange of opinions and response to questions.

In an effort to keep the public informed as to the substantial revisions and modifications to the DGEIS plan in order to mitigate impacts identified during the review period, a final public hearing was held on September 11, 2008 to present the revised plan. Comments were received from the public and additional revisions were made to the plan prior to acceptance of the FGEIS by the lead agency.

## **VIII. SITE-SPECIFIC & PROJECT-SPECIFIC FACTS, IMPACTS, MITIGATION & FINDINGS**

A wide range of potential environmental impacts were identified and evaluated in the draft and final environmental impact statements. The following impacts, or impacted resources, were studied and considered: visual resources; wastewater collection; wastewater treatment; storm water; water resources; hydrogeological resources; wetlands and wildlife; traffic and transportation; land use, planning and zoning; open space, public access and recreation; cultural



and historic resources; noise; air quality; cumulative, secondary and growth-inducing impacts; and consistency with the City's Local Waterfront Revitalization Program (LWRP).

In accordance with the requirements of Section 617.11(d) of the SEQRA regulations, the Lead Agency has considered all of the significant potential impacts presented by this project and has conducted a careful review of the information and analyses presented in the DGEIS and the FGEIS including the proposed Regulating Design Manual which will guide detailed site development and architectural treatment of the site. The Lead Agency has weighed and balanced the relevant impacts with social, economic and other considerations, consistent with its responsibility to do so under SEQRA. Consequently, for the reasons set forth in this Findings Statement, the Lead Agency finds that the adverse environmental impacts that may result from this project have been avoided or mitigated to the maximum extent practicable.

The Lead Agency's rationale and conclusions regarding individual impacts are discussed by topic below. Each section also includes conditions which are established by this Findings Statement to ensure that the proposed mitigation measures are effective and that the conclusions set forth herein are warranted.

**A. Positive Impacts**

**1. Identified Impacts**

During the course of its review, the Lead Agency determined that this project will yield a variety of positive environmental impacts which are summarized as follows:

- a. The project will result in the rehabilitation and transformation of an abandoned former industrial site into a productive and vital part of the City of Kingston and Town of Ulster communities.
- b. The project has provided the City of Kingston and Town of Ulster the opportunity to guide comprehensive planning for the development of this large site to implement policies set forth in the City's LWRP. One of the major tools developed to ensure that the vision for development of this site is achieved is the Regulating Design Manual which has been prepared by the Applicant at the direction of the lead agency. This manual will govern the location of developed and open space areas, delineate specific areas by use, housing types, building height and lot size. The Manual will also include design guidelines to govern architectural style, building massing, roof slopes, exterior materials, window and door treatments, streetscape design, landscaping and lighting standards.

- c. The project will preserve and protect some 350 acres of open space of which a majority will be accessible to the public for the first time. Other open space areas which may not be suitable for public access shall be preserved in conservation easements. Such a large area of natural open space, along with its location in proximity to the Hudson River, will give the City of Kingston and the Town of Ulster a unique open space resource for the enjoyment of future generations.
- d. The project will establish new and significant recreational resources in the City of Kingston and Town of Ulster. Due to the history of this site as a quarry, it contains unique topography which includes bluffs having spectacular views overlooking the Hudson River and dramatic lakes surrounded by sheer cliff walls. These areas of the site have been preserved and with the development of this project, will be available to the public for hiking and recreation.
- e. The project will provide significantly increased public access to and enjoyment of the Hudson River, including a publicly accessible promenade which will run approximately one mile in length along the River and several launch areas for canoes and kayaks..
- f. The project will establish a 2,000 square foot environmental education center on the site.
- g. The Project will preserve, restore and adaptively reuse historic structures on the site consisting of the Shultz Mule Barn and brick smokestack located at the northern end of the site in the Town of Ulster.
- h. The City of Kingston waste water treatment system will be upgraded.
- i. Economic benefits will occur to all taxing jurisdictions and commercial and service businesses due to construction and continued occupancy of the development.

## **2. Conditions**

These positive impacts will be further secured by conditions and requirements set forth in this Findings Statement.

## **B. Visual Resources**

### **1. Potential Impacts and Mitigation Measures**

**a. Visual Impacts Identified in DGEIS Plan**

The development proposed in the DGEIS created significant visual impacts, especially from viewpoints to the east of the project site, as it transformed the former heavy industrial site, which had become largely overgrown in recent years, to a continuous composition of low architectural elements along the site's river frontage.

Importantly, directly east of the project site is located the Estates District designated as a New York State Scenic Area of Statewide Significance (SASS). This designation reflects the State's recognition of the area's special scenic quality. While many of these estates are not open to the public, clear views to the project can be seen by the public from the Amtrak Railroad tracks, the hamlet of Rhinecliff, the Rhinebeck Town Landing, and from the Hudson River itself.

Photosimulations taken from these eastern viewpoints show that the DGEIS plan created an unbroken strip of development along the Hudson River. Development stepped back and up from the shoreline, with buildings on both lowland and upland areas. From lower elevations (such as the railroad tracks and the Hudson River) the proposed development broke the established ridgeline in the upland areas with the large commercial development proposed near Route 32.

While development along the Hudson River is common in the region, the historic regional pattern consists of compact towns with centers and defined edges. Development initially proposed in the DGEIS could be characterized as suburban, sprawling, and automobile-oriented with cul-de-sacs, large parking lots, no defined center and no obvious edge. This type of development would replace the overgrown former industrial site, but its design was not typical of the region's historic development patterns.

Further, the project intruded on the Hudson River. Much vegetation was removed along the shoreline and, while some screening vegetation was proposed, buildings were located less than 100 feet from the River's edge in places, and much closer where development met the proposed marina. While this marina was a use that was encouraged by Kingston's Local Waterfront Revitalization Program (LWRP), it was a highly visible use, and would bring highly visible activities to the shore area.

Photosimulations in the DGEIS also showed that the site would have significant visibility at night, transforming a nearly entirely dark area of the shore into one of considerable brightness, especially as seen from viewpoints to the east.

**b. Mitigation Measures Incorporated in the Revised FGEIS Plan**

Redesign and downsizing are the most important measures incorporated in the revised plan to mitigate visual impacts. The number of residential units proposed for the site was reduced by over 20%, the amount of commercial development proposed for the site was reduced by 69%, and the marina was eliminated. The remaining development was redesigned according to neo-traditional design principles. In brief, these design principles are intended to create built environments that are more like traditional towns and villages, rather than typical post-war suburban development. Consequently, much of the area to be developed will be at a higher density than initially proposed, the overall development footprint will be smaller and more open space will be preserved. Further, the development was broken into two separate components: the smaller development to the south known as the South Cove, and the larger component to the north known as the North Cove. Each component has its own center, with taller buildings and mixed uses, which then radiates outwards with smaller, less dense, development toward its edges. The two neighborhoods are separated by an undeveloped central open space of approximately 1,000 feet along the Hudson River. This central core has the effect of reducing the visual impact of the total development along the shoreline by breaking it into two smaller urban cores.

The project redesign removed elements that broke the established vegetated ridgeline, including development on the upland above the visible cliff wall, and the large commercial building near NYS Route 32. While development will remain in front of the existing visible cliff wall, it is lower and photosimulations show it will not obstruct views of the cliff wall.

Development was also stepped back further from the River's edge, which again reduces visual impacts, especially nighttime visibility from the eastern shore, and provides more space for screening vegetation. Development in the revised plan, ranges from 300 to 400 feet from the shoreline in the North Cove neighborhood with a smaller intrusion for the waterfront restaurant. The South Cove development is somewhat closer to the Hudson's edge, as close as 125 feet in places, but generally leaves a buffer of at least 200 feet or more from the River's edge.

Many of the changes in the project plan were made to conform with policies established in the City of Kingston LWRP, specifically Policies 24 and 25. These policies encourage preservation of rock outcroppings and cliffs, siting development back from the shoreline and "clustering or orienting structures to retain views, save open space, and provide visual organization to a development."

The redesign also includes more variety of structure types, colors and materials than the original DGEIS plan, while still committing to use less visible colors to reduce visibility. The structure types, colors and materials proposed are more in keeping with traditional development patterns in the Hudson River Valley. In the redesign, building heights are reduced so that the top story of most of the structure types proposed is now a habitable floor, (the original proposal included attics above the top habitable floor) and the roof lines are more articulated. The net effect is to lower building profiles, thereby making them less visible from points east while not necessarily reducing the density required to make vibrant, transit-oriented communities. To ensure that regionally appropriate design is maintained as the project is developed, the project's Regulating Design Manual has been drafted with a high level of specificity, detailing not only architectural styles, but also requirements for urban design, land use, building height, landscaping and open space design. These guidelines will become part of the plan upon project approval.

Although the proposed residential and commercial development will introduce urban scale outdoor lighting into a currently dark portion of the riverfront, the Regulating Design Manual will include lighting design guidelines and operating protocols designed to avoid or minimize sky glow, light pollution, glare and off-site light migration to the maximum extent practicable. Primary techniques to be employed include; lighting only those areas where access is required after dark, shielding areas requiring frequent night access from off-site view, turning off-lights in areas when not needed, limiting illuminance to the level necessary for safe function, using shielding mechanisms to prevent upward light, and using low reflectance materials where practical to avoid reflected illumination.

Offsets (beneficial impacts included in the project) are an additional form of mitigation. Notable is opening much of the site to the public and construction of hiking trails through the extensive open spaces that provide the public access to visual resources that were previously inaccessible. Views of the escarpments and quarry ponds on-site will be opened to the public and will become community visual resources. Dramatic views to the Estate District SASS across the Hudson will also be open to the public. Finally, providing access to the Hudson River via an esplanade, and kayak and canoe launches are other significant additional offsets which are incorporated in the FGEIS plan. These actions also address policies in the LWRP which encourage siting of water dependent and enhanced uses along the shoreline.

## **2. Conditions and Thresholds**

**a. Additional Conditions to Ensure Continued Effectiveness of Mitigation Measures**

The following conditions are hereby established and shall apply to approval of subsequent applications for development approvals:

- (1) Rules governing the maintenance of the public areas of the development site, where the majority of screening vegetation is located, shall be developed and submitted to the Planning Board for approval and shall include mechanisms to enforce maintenance and replacement of screening vegetation outlined in the FGEIS.
- (2) Deed restrictions, restrictive covenants and/or rules for home owners associations shall be established to ensure that building owners have a limited palette of colors to use when painting, residing or roofing their building. These rules must also govern the use of materials to ensure that specular materials are not used in future modifications or additions.
- (3) The project's Regulating Design Manual addresses architectural styles, setbacks, parking, landscaping and other specific elements of the development plan. The purpose of the Regulating Design Manual is to ensure through the use of detailed instructions and illustrations how the character of the development as described in the FGEIS is maintained as it is built. An effective review and enforcement mechanism shall be established to ensure that the guidelines are considered and followed as the project develops.
- (4) The Hudson Landing Design Committee (HLDC) will be created by inter-municipal agreement between the City of Kingston and Town of Ulster as a committee to advise the Planning Boards of the City of Kingston and the Town of Ulster, during review of all development plans. This committee shall review and give recommendations to the Planning Board regarding consistency of plans and building design with the Regulating Design Manual and the FGEIS.
- (5) As part of any application for site plan approval the applicant shall submit photosimulations of the proposed development from specific viewpoints selected by the Planning Board or the HLDC. Such simulations shall be prepared using the same technique and details presented in the FGEIS, but will use information that becomes available during site plan review including actual proposed architecture, grading, landscaping, lighting and final site plans. If

visual simulations conducted during site plan review show that the development creates a larger visual impact than that which is shown in the FGEIS, then the Planning Board may require a supplemental EIS (see below). The materiality of any changes to impact on visual resources will be determined solely by the Planning Board. The requirement for photosimulations during site plan review may be waived by the Planning Board on its determination that the buildings for which site plan approval is requested are not materially visible beyond the boundaries of the total site.

**b. Thresholds for a Supplemental EIS**

The applicant will be submitting detailed site plans and subdivisions for each phase of development for review and approval. During that review, the plan submitted must be reviewed to ensure that the basis for these findings remain valid and consistency with the Regulating Design Manual is maintained. Deviations made to the following elements of the plan, may require a supplemental EIS.

- (1) Changes in building height (e.g. using taller buildings or moving taller buildings to another location);
- (2) Materials varying from those described;
- (3) Expanding or moving the footprint of the developed area;
- (4) Any reduction in the amount of open space and/or public accessibility to open space and on-site visual resources.
- (5) A modification to use if it either changes the form of the development (e.g. adds a larger, more visible building), or involves highly visible uses or lighting conditions.
- (6) Material deviations from the assumptions used in the photosimulations, regarding the following:
  - Landscaping Plans, including tree removal plan;
  - Grading Plan;
  - Lighting Plan.

**3. Findings**

The Planning Board has reviewed the photosimulations and renderings submitted with the revised plan included in the FGEIS together with the Regulating Design Manual and finds that the visual impacts identified in the plan which was the subject of the DGEIS have been mitigated or avoided to the maximum extent practicable. The Board also finds that the conditions established herein, in conjunction with the detailed review required of subsequent site plan submissions, will ensure that potential visual impacts are avoided to the maximum extent practicable.

**C. Wastewater Collection**

**1. Potential Impacts and Mitigation Measures**

**a. Impacts Identified in the DGEIS Plan**

The DGEIS projected “design” flows based upon NYSDEC criteria, as well as “projected” flows (actual anticipated flows) based upon historic water use figures provided by the City. Both numbers are helpful in determining impacts. The design flows have been utilized to gauge the timing and phasing of necessary off-site infrastructure improvements to the collection system to accommodate future development. Also, additional flows were assumed from the East Kingston Area, which is currently not served by public sewers, as well as the proposed Sailors Cove Development which would utilize the same collection system.

In an effort to identify actual wastewater flows within the collection system, the Lead Agency’s consultants and the City of Kingston Sewer Department measured existing flows at the East Strand Pump Station and compared these with water consumption as recorded by the Kingston Water Department. Based upon these existing flows and the “design” flows for the project, phasing was revised, and infiltration/inflow problems were identified to be addressed as part of the improvements.

**b. Mitigation Measures Incorporated in the FGEIS**

The following improvements to the sanitary sewer conveyance system due to Hudson Landing have been identified and will be implemented by the Applicant at the direction of the City. If the Sailor’s Cove project proceeds; it will be required to contribute its fair share of these improvements, as determined by the City.



- (1) Installation of a new gravity sanitary sewer line in North Street to the North Street Pump Station at Delaware Avenue will be required prior to the first Certificate of Occupancy (C.O.) for the project.
- (2) Renovation and expansion of the North Street pump station shall be phased as follows:
  - Prior to the issuance of the 388<sup>th</sup> C.O for the project (completion of Phase 1) the North Street pump station will be increased in capacity by adding an additional 350 gpm pump, and any necessary associated appurtenances, to the station thus increasing the capacity to 700 gpm.
  - Further capacity improvements will be required at the pump station as directed by the City prior to the completion of phase 2. These improvements, are highly flow dependent and include flows not only from Hudson Landing but projected flows from the East Kingston neighborhood as well as the adjacent Sailor's Cove Development. Therefore, the City will monitor actual flows and require improvements at the pump station accordingly.
- (3) Replacement of the existing North Street sewer force main with a 12" main prior to the completion of Phase 1.
- (4) Extension of the North Street force main to the Treatment Plant headworks, thus bypassing the East Strand Interceptor Sewer and East Strand Pump Station prior to the completion of Phase 1.

Additionally, the Applicant has committed to targeted infiltration reduction projects within the existing collection system to offset anticipated flows from the project. These improvements will be constructed as part of phase 1 and will include but may not be limited to the following:

- (5) Repair of portions of the East Strand Interceptor Sewer identified by the City in order to remove 90,000 gallons per day (gpd) of tidal inflow.
- (6) Removal of approximately 60,000 gpd of infiltration through the sealing of selected manholes identified by the City.

The Applicant will monitor flows from the development on a continual basis to assess if and when thresholds for future improvements are met.

**2. Conditions**

- a. In order to implement the above actions, the City of Kingston and the applicant will enter into a development agreement whereby the proposed off-site sewer infrastructure improvements are bonded, how and when the developer will pay, and a decision made as to whether the developer or the City will install the improvements. The Applicant has provided a projection of sewer use revenues from the project that will have a favorable impact on the sewer district finances.
- b. The Applicant will monitor the actual flow rates from the project to make sure they are within the design parameters. Phasing of improvements may be adjusted based upon the actual flow rates. The actual design of each improvement will be reviewed in conjunction with the City's plans for infiltration/inflow control in this area. If water consumption exceeds NYSDEC design flow rates,, a supplemental EIS will be required.

**3. Findings**

The Planning Board has reviewed the impacts on the wastewater collection system to be generated by the proposed development and the specific measures proposed to mitigate such impacts by repairing and upgrading the collection system. The Board finds that such measures and the conditions hereby imposed on the Applicant will ensure that impacts to the wastewater collection system will be mitigated to the maximum extent practicable and that, in fact, deficiencies in the existing system will be addressed as well.

**D. Wastewater Treatment**

**1. Potential Impacts and Mitigation Measures**

**a. Existing Conditions**

As detailed below, the existing wastewater treatment plant (WWTP) was in conformance with its NYS Department of Environmental Conservation" (DEC) permit standards 98% of the time for the past two years. During the year 2007 and 2008, a total of 1,963 test samples were taken to monitor the efficiency and effectiveness of the WWTP, as required by the DEC under the City's State Pollution Discharge Elimination System (SPDES) Permit. Such things as Flow, Carbonaceous Biological Oxygen Demand (CBOD which is a measure of oxygen consuming matter in the wastewater). Settleable Solids (heavier solids that settle out of the wastewater) and Coliform Bacteria are tested. These are the main indicators of the quality of

the wastewater entering and leaving the WWTP and the quality of the plant's performance in terms of the removal efficiencies of the various pollutants that are treated.

For the year 2007, only 46 test results (2%) required corrective action. The minimum for Settleable Solids was exceeded on two (2) occasions. This was due to wet weather conditions, which can at times be difficult to predict. With regard to the Coliform levels in the wastewater discharge for 2007, there were 44 incidents that needed correction. The 44 incidents were due to the fact that new equipment was to be installed. The new equipment, once installed, has corrected this deficiency and for the year 2008 there have been no incidents that needed correction with regard to disinfection and Coliform bacteria levels.

For the year 2008, there were a total of 8 incidents. On two (2) occasions CBOD percent removal was below the permit limit of 85% removal (82% and 83% respectively). These lower than normal efficiencies were a result of the "diluted" incoming wastewater due to wet weather events. On both occasions the concentrations of CBOD in the facility discharge remained well below the 25 mg/l average monthly concentrations level permitted (10 mg/l on both occasions), so there was no increased pollutant loading to the Rondout Creek. On six (6) occasions Settleable Solids exceeded the maximum amount permitted in the discharge due to wet weather conditions causing uncontrollable hydraulic overloads.

The current City's SPDES permit has a 12-month rolling average flow limit of 6.8 mgd. The three year average daily flow to the WWTP is 5.5 mgd between July 2005 through December 2008.

**b. Evaluation of Wastewater Treatment Plant (WWTP) Capacity**

A separate consultant was retained by the Lead Agency to undertake a detailed evaluation of the treatment and hydraulic capacity of the existing WWTP. These studies were commenced in response to concerns expressed during the public comment period regarding the capacity of the WWTP to accommodate the Hudson Landing project and several other proposed mixed use developments. The results of the evaluations were presented in the reports entitled *Desktop Capacity Evaluation*, dated December 2006 (revised December, 2008) and *NYSERDA Energy Conservation Study*, April 2007.

The WWTP was evaluated based on the following:

- Future flows and (pollutant) loads associated with the development of the Hudson Landing, Sailor's Cove and the Parking Garage Redevelopment projects; existing and proposed future flows from neighboring communities; and normal background growth; and
- It is important to emphasize that the projected flows to the WWTP from Hudson Landing are conservative. They were based on the design flows recommended by New York State DEC – 120 gallons per day per bedroom. Actual flows from similar projects in Kingston and surrounding towns, based on water consumption, have been measured at an average of 60 gallons per day per bedroom. Furthermore, the evaluation of capacity was developed prior to final revision of the development plan and was based on a total of 2,017 dwelling units rather than the 1,682 units included in the final plan, a reduction of 16.6%. Therefore, the actual flows to the WWTP are likely to be less than half of that used in the WWTP capacity evaluation.
- Current flows and loads to the WWTP from residential, commercial and industrial sources; and
- Existing unit operations at the WWTP. (see a. above)

The evaluation was conducted by developing a BioWin model of the WWTP which is a dynamic simulator utilized to predict operational parameters of a wastewater treatment facility. The model enables performance, capacity and responses to changing conditions to be simulated prior to completing capital improvements or process modifications. The modeling results indicated the WWTP did have the hydraulic capacity to handle the flows generated by Hudson Landing and the other identified flows while maintaining compliance with the SPDES permit if modifications were implemented in the operation and physical configuration of the treatment process units.

The existing secondary treatment system of the WWTP was originally designed with flexibility to operate under several different modes. Currently, the WWTP operators utilize the plug flow mode of operation. One goal of the evaluation was to determine if the future flows and loads could be sufficiently treated at the WWTP using operational changes rather than major capital improvements. The Lead Agency's consultant, Malcolm Pirnie, Inc., modeled three different modes of operation to evaluate the impacts of the proposed developments. These alternatives were:

- Increasing the solids residence time (SRT) of the mixed liquor in the aeration basin and utilizing a plug flow mode of operation with minor capital improvements;

- Utilizing a step feed mode of operation with minor capital improvements; and
- Utilizing a contact stabilization mode of operation with minor capital improvements.

The evaluation concluded that impacts from future flows and loads could be mitigated by changing the mode of operation to step feed and completing capital improvements prior to the Hudson Landing project commencing the fifth phase of construction.

The model projects an increase in the Ultimate Oxygen Demand (UOD) discharged to the Rondout Creek of only 18 percent by operating the WWTP in the step feed mode and completing improvements to the WWTP in order to provide more oxygen and better oxygen distribution to the aeration basins, as well as improvements to the primary secondary clarifiers to enhance settling during wet weather events.

The hydraulic analysis of the WWTP, as summarized in the *NYSDERDA Energy Conservation Study*, concluded that the peak flow could be increased from 10.3 million gallons per day (mgd) to 13.6 mgd, if determined necessary through the Long Term Control planning process the City is currently under taking. If the number of residential or commercial units is increased or the respective flows and loads from the proposed developments increases, the ability of the WWTP to treat the wastewater should be re-assessed by simulating the new proposed conditions with the existing model.

**c. Mitigation Measures Incorporated in the FGEIS**

It is also noted that the following improvements were identified by the City previously under a separate improvement project that incorporated the flows and loads of the Project into their design and implementation at the WWTP:

- Replacement of Ultraviolet (UV) Disinfection System to improve energy efficiency and pathogen kill at higher wet weather flows
- Replacement of Dissolved Air Flootation (DAF) thickener with a Gravity Belt Thickener to increase the solids concentration
- Installation of a odor control system to treat nuisance odors at various unit processes with the WWTP

- Installation of a new mixing system in the primary and secondary digesters to improve volatile solids destruction for higher solids concentrations
- Improve the Belt Filter Press
- Replacement of the headworks bar screen and compactor & washer

The various improvements outlined in the *Desktop Capacity Evaluation* and the *NYSDA Energy Conservation Study* are recommended to be completed at the WWTP prior to commencement of the fifth phase of construction of the Project. These improvements include:

- Replacement of the existing aeration system including blowers, air distribution, diffusers and control systems.
- Replacement of the existing aeration basin influent gates with automatic gates for operator control in the step feed mode of operation.
- Construction of a new secondary clarifier, influent splitter box and RAS pump.
- Constructing new weirs in the existing primary and secondary clarifiers to increase the weir length.
- Constructing a polymer feed system for the secondary clarifiers to improve settling during wet weather flows.
- Installation of Settled Sewage Pumps and associated piping.

Most of the operational costs of the WWTP, exclusive of the specific improvements discussed above and in c. below, are fixed and will not be significantly affected by the increased flows from Hudson Landing. Annual revenues from sewage user fees by Hudson Landing are estimated at \$945,445 based on DEC water usage standards or \$461,292 based on actual usage in similar projects in the region. In either case, this revenue will far exceed the variable costs of treating sewage from Hudson Landing.

## 2. Conditions

- a. The environmental review of this project has demonstrated that improvements to the WWTP will be necessitated by this project. Hence, in addition to normal user fee assessment, the Applicant will be responsible for its proportional share of the cost of the improvements to be implemented at

the WWTP which are necessary to accommodate additional flows and loads, (as described in paragraph c above) which the City is projecting to implement prior to construction of Phase 5 of the Project. The Applicant's proportional share shall be based on a construction cost estimate prepared by the City's consultant, and based on the overall load to the WWTP (a combination of BOD, TSS and TKN) with respect the new flows and loads associated with expansion in the Town of Esopus, Town of Ulster, East Kingston and the Project and the Sailor's Cove development.

- b. Approvals required under the City's SPDES permit shall be obtained from NYSDEC as provided in said permit.
- c. Since projected capital improvements are based on DEC flow requirements, the Applicant shall be required to monitor actual flows. If the average daily flow during any quarterly billing period exceeds 80% of the projected water usage based on DEC standards for all units completed and occupied during that quarter, a supplemental EIS will be required.
- d. The Applicant will be responsible for its proportional share of cost of the Long Term Control Plan (LTCP) the City is commencing in 2009, which will take into account the Project flows and loads and impacts on the existing combined sewer system. The Applicant's proportional share of the LTCP shall be based on the dry weather flows of the Project and the projected dry weather flows to the WWTP.
- e. Due to the length of the planning process and expected 15 – 20 year development period, the City of Kingston reserves the right to re-evaluate the impacts of revised regulatory requirements on the necessary improvements at the WWTP.

### 3. Findings

The Planning Board has reviewed the potential impacts on the City's WWTP and the proposed improvements to improve the efficiency and capacity of plant operations. This analysis demonstrates that the WWTP will have ample hydraulic capacity to handle flows from Hudson Landing upon completion of the recommended improvements. The Board finds that such measures and the conditions hereby imposed will avoid adverse impacts on the WWTP to the maximum extent practicable and promote efficient operation of said facility in the future.

**E. Public Services and Fiscal Impacts**

**1. Potential Impacts and Mitigations Measures**

**a. Fiscal Impacts Identified in the DGEIS Plan**

The Lead Agency requested further analysis and clarification in several areas including assessment technique for condominiums for each of the assessing units involved, consistent use of fiscal data, tax rates, equalization rates and levels of expenditure to produce a level of services and a tax burden for any particular year and the estimate of school-age children to be generated by the project. Also, full evaluation of the final impact associated with upgrading the sewer and water systems serving the site.

**b. Mitigation Measures Incorporated in the Revised Plan**

In addition to the original analysis, the Lead Agency's consultant recommended that the fiscal impact analysis include a "break-even" analysis to identify how much lower proposed housing prices would have to fall before the projected fiscal benefits would be eliminated. It was also recommended that a similar analysis be conducted to determine how much greater the projected school age population would have to increase to eliminate the fiscal benefits to the school district.

The "break-even" analyses demonstrated that housing values would have to decline between 34% and 70% below expected value to wipe out fiscal benefits (e.g., Townhouse condos would have to decline from \$350,000 to \$122,000 to reach "break even" for the Kingston City School District (KCSD). The ratios of predicted school children to be generated by the project would have to increase 2.5 to 3 times to reach "break even" for KCSD. Furthermore, the Kingston City School District provided projections that indicated that from 2003 to 2013, the district enrollment is projected to decline by over 1,000 students from 7,699 (8,017 including special education) to 6,423 (6,885 including special education). This decline is expected to be fairly uniform across all grades. Consequently, it appears that the approximately 300 school children to be generated by the Landing would be easily accommodated in existing school facilities.

The revised fiscal impact analysis, based on the neotraditional plan, projected the following costs and revenues upon full build-out of Hudson Landing. Net annual revenues for each taxing jurisdiction will be positive upon full build-out, as well as after each development phase.



<u>Taxing Jurisdiction</u>	<u>Total Annual Revenue</u>	<u>Annual Cost</u>	<u>Net Annual Revenue</u>
City of Kingston	\$ 3,180,164	\$ 574,502	\$ 2,605,662
Town of Ulster	739,802	86,126	653,677
Kingston City Schools	8,896,672	3,135,938	5,760,734
Ulster County	2,122,669	651,898	1,470,772
East Kingston Fire	193,992	21,732	172,261
Kingston Library	87,901	57,561	30,340
TOTALS	\$15,221,201	\$4,527,756	\$10,693,445

**2. Conditions and Thresholds**

**a. Additional Conditions to Ensure Continued Effectiveness of Mitigation Measures**

To ensure that the projected positive fiscal benefits are actually achieved the Applicant shall monitor and report to the Planning Board, upon substantial completion of each development phase, the actual conditions which affect fiscal impact including project assessments and taxes generated, number of resident school children and city services utilized by project residents. If analysis of the actual factors affecting fiscal impact reveal that such impacts are within 20% of the "breakeven" threshold, the Applicant may be requested to modify the development program in subsequent phases to maintain the projected positive fiscal impact.

**b. Thresholds for a Supplemental EIS**

Approval of subsequent phases of this project shall be dependent upon the availability of adequate community facilities, ranging from sewer and water to roads and schools. If such capacity cannot be demonstrated for each new phase of the project, an SEIS would be appropriate. For example, if the City School District experiences significant growth in enrollment between phases of this project, an SEIS may be required to confirm that the initial assumptions about school impacts are still valid.

**3. Findings**

The Planning Board has reviewed the revised fiscal analysis submitted with the revised plan included in the FGEIS and finds that the final impacts identified in

the plan which was the subject of the DGEIS have been mitigated or avoided to the maximum extent practicable. The Board also finds that the conditions established herein, will ensure that potential fiscal impacts are avoided to the maximum extent practicable.

**F. Stormwater**

**1. Potential Impacts and Mitigation Measures**

**a. Impacts Identified in the DGEIS Plan**

The original plan proposed use of existing quarry ponds for a portion of the stormwater disposal and posed potential adverse affects on groundwater due to the highly soluble karst geology underlying portions of the site. The plan detailed projected flows and potential pollutant loadings, and met the requirements of NYSPDES General Permit #GP-02-01.

**b. Mitigation Measures Incorporated in the FGEIS Plan**

Considerable field effort was devoted to scouring the site for evidence of "karst" conditions. Karst or karst-like features were found in certain areas which can impact groundwater quality due to large openings in soluble rocks which can transport large volumes of water very rapidly. The overriding concern is the protection of the local surface water and groundwater resources. As described in the DGEIS, the majority of recharge to the local groundwater system is through direct runoff from precipitation. As such, management and protection of the surface water is critical to groundwater protection. The NYSDEC has considerable regulatory guidelines for the protection of surface water, all of which are met or exceeded by the proposed project. As described above, the Stormwater Management Plan will provide descriptions of innovative, state-of-the-art treatment techniques appropriate for site-specific conditions.

Based on the study of site geology, the site has been divided into water quality protective zones in proposed development areas. Zone 1 consists of Lost Lake, its associated drainage channel, as well as other water bodies and wetland areas within its recharge area. A 100-foot buffer has also been provided around these features to protect the water quality into Lost Lake. The water quality of the Lost Lake surface drainage system will not be degraded by the proposed project. The upland areas overlying carbonate bedrock and within the Lost Lake drainage basin and outside of the Zone 1 areas are defined as Zone 2. Stormwater management within Zones 1 and 2 will be conducted in accordance with Chapter 7 ("Stormwater Management

Practices Selection”) of the NYSDEC Stormwater Management Design Manual. Zone 3 consists of lands underlain by noncarbonated bedrock, predominantly along the Hudson River lowland and on the western side of the site. Drainage from Zone 3 does not flow into the Lost Lake system, and no special requirements above the normal Phase II requirements are necessary.

It is important to note that pollutant loadings and assessments are provided in the Storm Water Management Report. The FGEIS Plan represents a project design change that addresses several concerns expressed through public comment and includes provisions to ensure that State stormwater quantity and quality standards are achieved. Additional discussion of karst geology appears in Section IX.I below.

## **2. Conditions and Thresholds**

### **a. Conditions Established to Ensure Effectiveness of Mitigation Measures**

The individual site plan for each phase shall contain a detailed design of stormwater conveyance systems and storm water quality features. The City and/or Town shall review each phase for compliance with state regulations and with its MS4 responsibilities. The stormwater plan shall comply with the provisions of NYSPDES General Permit #GP-02-01 and subsequent modifications/revisions and the Applicant shall retain a qualified professional to perform inspections and submit reports, in accord with permit requirements, to the City and/or Town to ensure compliance during all phases of construction.

### **b. Thresholds for a Supplemental EIS**

If the storm water plan complies with the provisions of NYSPDES General Permit #GP-02-01, and subsequent modifications/revisions, there shall be no need for an SEIS.

## **3. Findings**

The Planning Board has reviewed the proposed measures to treat stormwater and finds that the impacts identified in the plan which was the subject of the DGEIS have been mitigated or avoided to the maximum extent practicable. The Board also finds that the conditions established herein, will ensure that potential impacts are avoided to the maximum extent practicable.

## **G. Site Grading**

### **1. Potential Impacts and Mitigation Measures**

#### **a. Impacts Identified in the DGEIS Plan**

The DGEIS plan included a detailed grading plan. Since the site is a former mine, extensive grading to reclaim the disturbed areas is necessary. Erosion and sediment control measures were incorporated to reduce storm water impacts from the proposed grading. The original plan also proposed some grading in previously undisturbed areas.

#### **b. Mitigation Measures Incorporated in the FGEIS Plan**

The final Traditional Neighborhood Plan will be developed primarily on the previously disturbed areas of the site and redesign of the originally proposed layout has reduced the grading required in previously undisturbed areas.

The redesigned project respects the unique geologic quality of this former limestone quarry. The majority of redesigned development has been placed in areas of relatively level topography, such as the plateau site of the former Tilcon cement manufacturing plant and the waterfront lowland in the South Cove. Several steep and unnatural looking promontories (remaining relics of site mining) will be removed to extend the relatively level area in the vicinity of the existing silos. Due to the lack of geologic or natural significance, the Lead Agency determined that the removal of these promontories did not represent an adverse environmental impact. This material will be used for on-site construction purposes.

There will be no development along the ridgeline above the South Cove or above the prominent and unique rock outcropping visible from the Hudson River and eastern shore. These upland areas will now be preserved as open space for public access, recreation and enjoyment of the 180-degree vista of the Hudson River and Hudson River valley.

### **2. Conditions and Thresholds**

#### **a. Conditions Established to Ensure Continued Effectiveness of Mitigation Measures**

The detailed design of each phase shall include a detailed site grading plan. Once an overall final design concept is determined by the applicant, the

original detailed grading plan shall be updated so that the individual site plans for each phase can be reviewed in relation to the overall plan.

**b. Thresholds for a Supplemental EIS**

An SEIS may be required if development is proposed in areas beyond the footprint of the current FGEIS plan.

**c. Findings**

The Planning Board has reviewed the conceptual grading plan and proposed mitigation measures submitted with the revised plan included in the FGEIS and finds that the impacts identified in the plan which was the subject of the DEIS will be mitigated or avoided to the maximum extent practicable. The Board also finds that the conditions established herein, in conjunction with the detailed review required of subsequent site plan submissions will ensure that potential impacts are avoided to the maximum extent practicable.

**H. Water Resources**

**1. Potential Impacts and Mitigation Measures**

**a. Existing Conditions**

The safe or dependable yield of the City's water supply is 6.1 MGD. By definition, the safe yield of any water supply is the maximum dependable water supply that can be withdrawn continuously from a supply during a period of years in which the driest period or period of greatest deficiency in water supply is likely to occur. For the Kingston Water supply, that period continues to be the drought of 1957. The nominal capacity of the City's Edmund T. Cloonan Water Treatment Plant is 8 MGD, the capacity of the transmission mains from the Plant to the City is 10 MGD, and there is 14.1 MGD in storage in the distribution system. Although the average daily demand should not routinely exceed the safe yield, the additional capacity in the plant, transmission mains, and storage are sufficient to meet the daily demand as well as peak demands and fire flows.

**b. Potential Impacts**

The Hudson Landing project is proposed to consist of a mix of residential and commercial units that are to be constructed in 5 phases over a span of approximately 12 years. Design flows, recommended by the NYS Department of Environmental Conservation (DEC), are based on 120 GPD

per bedroom and are thought to be conservative projections, providing the requisite margin of safety for planning purposes. However, actual flows from similar developments in both Kingston and Esopus suggest that the flow is likely to be closer to 60 GPD per bedroom. At build-out, using DEC design flows, the daily demand from the Landing would increase the City's flows by 498,000 gallons per day. If the flows based on actual experience are used, the project would add approximately 253,000 gallons per day to the City's daily demand when it is completed.

In 2008, the Water Department's average daily demand was 3.28 million gallons and includes 0.2 MGD to the Town of Ulster as part of the Department's 2004 Agreement with the Town. Under that contract, there is an additional 0.3 MGD that was sold to the Town in 2007 and another 0.2 MGD that is committed for future use. When that 0.5 MGD is added to the 2006 totals, the average daily demand becomes 3.78 million gallons. Using the design flow of 0.48 MGD for the Landing, the most conservative estimates available, the average daily demand would increase to 4.26 MG when the project is completed.

During the mid 1990's consumption was at 4.3 MGD and declined sharply in 1998 due to closure of the IBM Plant in Ulster as well as aggressive and on-going leak detection efforts within the Water Department. The result is that since 1998, flows have ranged from 3.1 MGD to 3.4 MGD. Adding the Town of Ulster and the additional design flows for the Landing project, the projected daily demand is expected to return to its mid-1990 level of 4.3 MGD and that would not be realized until the project is completed, a period that is expected to last some 12 years. Most importantly, this flow is well below the safe yield of 6.1 MGD.

**c. Mitigation Measures Incorporated in the FGEIS Plan**

Returning water usage to its previous level should pose little problem since the staffing and capacity already exists within the Department. However, although the supply is available, improvements may be required to deliver the supply to the project without adversely impacting existing customers. Any improvements required will be made by the Water Department, in consultation with its engineers. The cost of the improvements will be borne by the developer. It is likely that a tank and pumping station will be required to deliver water to at least a portion of the project.

Since the original project was proposed, the Town of Ulster has installed a new 12 inch diameter water line along First Avenue to the hamlet of East Kingston. It is anticipated that with the availability of this new line, no

significant new off-site improvements will be necessary to the municipal water supply systems.

The Applicant, along with the water district, has projected that revenues from individual users in the project will have a favorable impact on the water district finances. As a mostly gravity system, 82 percent of the water produced flows to customers without pumping. As a result, the majority of the expenses are largely fixed. Since no increase in capacity or staffing are anticipated, the only costs associated with providing flows to the Landing would be the variable costs of the water itself and those associated with servicing the new accounts.

The variable cost of the Department's operations is relatively low: \$0.11 per 1,000 gallons produced and \$0.31 per bill issued. The annual cost to supply water to the project is anticipated to be \$21,622 if the more conservative design flows are used or \$11,805 if the flows are modeled on actual flows from similar projects. This would be an increase in current expenses of 7 percent and 4 percent, respectively. Gross annual revenues from the project are expected to be \$599,672 when the design flows are used and \$341,238 when actual flows from similar projects are used. This would be an increase in current revenues of 18 percent and 10 percent, respectively. The net annual income (in 2007 dollars) projected from Hudson Landing is \$578,050 per year if design flow projections are used and \$329,433 if expected flow projections are used in the calculations. In addition to the positive cash flow that is expected to be generated by the project, expanding the customer base will decrease unit costs across all phases of Department operations.

No further mitigation is required.

**2. Conditions and Thresholds**

**a. Additional Conditions to Ensure Continued Effectiveness of Measures**

None required.

**b. Thresholds for a Supplemental EIS**

The City water supply system has adequate capacity for the projected design flows for this project. There are no reasonable events that can be anticipated that would require an SEIS for water supply issues.

**c. Findings**

The Planning Board has reviewed the projected water demand to be generated by the project and finds that the impacts identified in the plan which was the subject of the DGEIS will be mitigated or avoided to the maximum extent practicable. The Board also finds that no conditions are necessary in conjunction with the detailed review required of subsequent site plan submissions.

**I. Hydrogeologic Resources**

**1. Potential Impacts and Mitigation Measures**

**a. Impacts Identified in the DGEIS Plan**

The DGEIS plan called for development in the vicinity of Lost Lake and other potentially sensitive water bodies which had been created during mining activities conducted on the site in the past. These historic mining activities focused on the removal of “softer” rock, which therefore raised the concern for “karst geologic features” being present throughout the site. Karst geologic features are characterized by large openings in soluble rocks with the capability of transporting large volumes of water very rapidly. The presence of these features affects the movement of water on and under the land. Based on site observations and a review of technical documents, it was concluded that karst-like features are present on a portion of the site, situated in the vicinity of Lost Lake and Lost Lake Mine, and that the presence of this karst represents a concern for development.

The features are augmented by past mining activity on the property. Lost Lake receives surface drainage from one stream and maintains a near constant lake level. There is no surface outlet to Lost Lake. The extent of interconnectedness of the water in the two mines is not known, but their proximity and the large size of openings supports the likelihood of significant subsurface hydraulic connection.

Independent research was conducted by the Lead Agency’s consultant to determine the presence or absence of karst and other geologic formations that would have the potential to affect the size and configuration of the proposed action. Research included a review of existing documentation, field tests, and a comprehensive investigation of field conditions in those portions of the site where development is proposed to occur. Based on this intensive research, it was concluded that the DGEIS plan would result in construction on areas determined to be geologically sensitive. As a result, the DGEIS plan had the potential to negatively impact groundwater resources. The research further concluded that karst features were present



on this site. With this knowledge, an overlay map was generated to differentiate the karst area(s) from areas without such features, and to determine the potential flow direction of groundwater discharging from Lost Lake and other on-site hydrologic features.

**b. Mitigation Measures Incorporated in the Revised FGEIS Plan**

Based on detailed field observations of lithologies at the site and structural interpretation of published geological maps, three geologic protection zones with varying degrees of protection of karst terrain and water resources were established. These protection zones represent the primary mitigation measure put forth in the FGEIS to address geologic conditions. The zone boundaries are significant with respect to construction and development activities because they define proposed zones with varying degrees of environmental resource protection, as follows:

The zone which includes the most sensitive areas on the site (identified as Zone 1), will be subject to the following regulations:

- No construction of structures and limited construction of roads. Limited development may be permitted if such development can be shown to effectively mitigate all impacts on the sensitive water bodies.
- No oil or chemical storage.
- No pesticide, herbicide, fungicide or rodenticide application or application of inorganic fertilizers.
- No use of this area for stormwater control unless stormwater management controls are implemented to eliminate the potential for surface water and groundwater interaction (e.g., lined stormwater ponds; piped stormwater out of the zone).
- No road salting.
- Minimal vehicular access during construction and minimal overall construction activities; immediate re-vegetation of any disturbed areas.
- No storage of construction vehicles or construction materials.

The next most sensitive areas on the site (Zone 2) will be subject to the following regulation.

- No underground oil or chemical storage; any above ground storage should include appropriately sized and constructed secondary containment.
- No pesticide, herbicide, fungicide or rodenticide application or application of inorganic fertilizers.
- Reduced road salting.
- Controlled stormwater management. All stormwater management controls in the zone shall be designed to eliminate the potential for surface water and groundwater interaction (e.g., lined stormwater ponds).
- Strict maintenance of stormwater control systems during construction to minimize flows from Zone 2 to Zone 1
- No long term storage of construction vehicles and no vehicle refueling. Refueling should occur only in Zone 3.

The remaining portion of the site subject to this comprehensive assessment, including lands along the Hudson River, does not appear to be geologically sensitive, and, therefore, will not have geologic or hydrogeologic restrictions placed on development (Zone 3).

The Revised plan has been redesigned to comply with the requirements of these protection zones as they apply to the location and character of development. No significant development will take place within the boundaries of the most protective zone and the majority of development will be located within the area determined to not contain sensitive geologic structures.

## **2. Conditions and Thresholds**

### **a. Additional Conditions to Ensure Continued Effectiveness of Mitigation Measures**

- (1) All future development on the site shall be consistent with the proposed protection zones established in the FGEIS.
- (2) Prior to any activity in areas outside the designated zones, which have not been evaluated for the presence of karst features, field investigation to identify hydrogeologic conditions shall be conducted and the results submitted to the lead agency. This condition shall not apply to minor

clearing and construction of paths and walkways or minor structures (such as gazebos) provided to implement the open space plan.

- (3) To ensure continued effectiveness of mitigation measures, the following actions shall be taken: monitoring of geologic protection zone limitations; strict maintenance of storm water control systems during construction (to minimize flows towards the most sensitive zones); and careful consideration of development, if any, in regards to mitigation of impacts on the sensitive water bodies.
- (4) An independent, qualified on-site environmental monitor(s) shall be retained, at the applicant's expense, to ensure compliance during all phases of construction.

**b. Thresholds for a Supplemental EIS**

- (1) If significant development is proposed in areas outside those evaluated and investigation reveals significant karst features in such areas, a Supplemental EIS may be required to evaluate the significance of impacts due to such development and appropriate mitigation measures which may be required.

**3. Findings**

The Planning Board has reviewed hydrologic resource and impact information in the DGEIS and the comprehensive investigation of field conditions by its consultant and the geologic protection zones established in the FGEIS and finds that potential impacts to groundwater identified in the plan which was the subject of the DGEIS will be mitigated or avoided to the maximum extent practicable. The Board also finds that the conditions established herein, in conjunction with the detailed review required of subsequent site plan submissions, will ensure that potential impacts to groundwater supplies are avoided to the maximum extent practicable.

**J. Wetlands and Wildlife**

**1. Potential Impacts and Mitigation Measures**

**a. Impacts Identified in DGEIS Plan**

Some of the potential impacts of the original plan were identified and additional data and studies were requested of the Applicant to expand the data base. The potential impacts generated by the DGEIS plan and evaluated in the subsequent analysis are as follows:

- (1) Impacts to Submerged Aquatic Vegetation (SAV) beds and aquatic ecosystem of the Hudson – Potential impacts to these resources included direct destruction from boat traffic and marina construction; pollution from petrochemicals and unauthorized waste discharges associated with boat use; and habitat degradation. These activities would have a cumulative impact to the Hudson River, as well as a more immediate effect on the site and surrounding aquatic environment.
- (2) Potential presence of Indiana bats and impacts – The potential presence of Indiana bats was not clearly identified; therefore additional substantive analysis was requested.
- (3) Impacts to nesting/foraging bald eagles – Information initially presented to determine the impacts to nesting and foraging bald eagles (including winter use) was required to be supplemented.
- (4) Potential impacts to other wildlife including short-nosed sturgeon, nesting turtles, invertebrates, macroinvertebrates, waterfowl and forest interior bird species – Potential impacts to the aquatic resources are detailed in (1) above. Potential impacts to interior nesting bird species and the issue of forest habitat fragmentation were not fully addressed in initial documents.
- (5) Impacts to Delaware Forest - Analysis of potential impacts from the project as proposed at the time, specifically to wildlife habitat and forest fragmentation, was required to be supplemented.
- (6) Impacts to Davis Sedge (including inadequate mitigation) and potential impacts to other rare plants - The potential occurrence of Davis sedge was not fully determined due to survey timing. Consequently, impacts and mitigation could not be analyzed.

**b. Mitigation Measures Considered, Measures Incorporated into the Revised FGEIS Plan**

- (1) In the revised plan, the marina component has been removed. This mitigating measure negates the potential impacts to aquatic ecosystem of the Hudson described above.
- (2) The Applicant's consultants conducted additional surveys and agency inquiries, at the request of the Planning Board, to address the potential presence of Indiana bats. Mitigation measures include minimizing impacts to potential roost habitat and clearing of wooded areas with potential roost trees in winter months when bats would not be present.
- (3) Research by the Applicant's ecological consultant regarding bald eagles did not identify any known nest sites in close proximity to the site. Removal of the marina component is also a mitigating measure that will eliminate potential impacts to bald eagles. Therefore little, if any, impact would occur to bald eagles in the area from the project.
- (4) The redesigned project preserves a large area of forest intact reducing the potential impact to the Delaware Forest and associated forest interior species. Some forest fragmentation will occur as an unavoidable impact of the proposed development; however, the revised plan will leave more mature forest intact.
- (5) Additional surveys were conducted for Davis Sedge at the appropriate time to identify the extent of this species and other rare plants. Mitigation to protect the plants in the areas where it occurs on the site will consist of fencing installed around the small patches of Davis sedge in the southern area of the site to prevent disturbance.

**2. Conditions and Thresholds**

**a. Additional Conditions to Ensure Continued Effectiveness of Mitigation Measures**

- (1) Wooded areas where potential Indiana Bat roost trees are identified shall only be cleared during winter months when the bats are not present.
- (2) In all locations where any development or construction activity will take place near the Davis Sedge in the southern area of the site,

protective fencing to prevent the disturbance to these plants shall be installed around them.

- (3) A qualified representative of the Planning Board shall periodically monitor the site to determine if additional Davis Sedge plants are present on the site. If additional Davis Sedge plants are found on the site they shall be protected with an adequate buffer and protective fencing or relocated to an appropriate site under the supervision of a qualified professional.
- (4) Any additional project modifications shall strive to retain as much of the intact forest communities as possible, specifically the more mature, less disturbed forest.

**b. Thresholds for a Supplemental EIS**

If new species of concern are identified, or unanticipated environmental impacts are encountered, supplemental surveys may be needed. These findings may require an SEIS.

**3. Findings**

The Planning Board has reviewed the revised plan included in the FGEIS and finds that the potential impacts identified in the plan which was the subject of the DGEIS have been mitigated or avoided to the maximum extent practicable. The Board also finds that the conditions established herein, in conjunction with the detailed review required of subsequent site plan submissions, will ensure that potential impacts to wetlands and wildlife are avoided to the maximum extent practicable.

**K. Traffic**

**1. Potential Impacts and Mitigation Measures**

**a. Impacts Identified in DGEIS Plan**

The original plan analyzed in the DGEIS resulted in extensive impacts to the existing transportation network which would require mitigation measures at 12 study area intersections. The significant impacts that were not resolved through the proposed mitigation measures were generally limited to the existing local roads: First Avenue, North Street, and Main Street. This was primarily due to the proposed access scenario, though it was also due to the size of the proposed development. The original study assumed that access to

Hudson Landing would be provided via existing local roads during the first phases of development with access to Route 32 developed only near the end of the project. This resulted in traffic volumes greater than 4,000 vehicles per day (vpd) on local neighborhood roads, which is considered the maximum traffic volume on a local road to maintain an acceptable quality of life. Exclusive access through the local roads is not considered acceptable due to the size of the originally proposed project plan and the impacts on existing neighborhoods.

**b. Mitigation Measures Incorporated in the Revised FGEIS Plan**

Three major changes were introduced between the original and the updated plan for Hudson Landing. These changes are the size and mix of land uses, the access plan, and the approach to development phasing which shifts initial site development from the southern end of the site to the northern end, on the City/Town line. The revised plan proposes a reduction in the number and type of residential units and the size and type of retail land uses. Rather than large scale retail, the updated plan proposes support retail within the development. Access is proposed via Route 32 during the first phase of development with full access to local roads to be developed in the later stages. These changes result in significantly reduced trip generation and reduced impact to local roads. It should also be noted that all construction vehicle access will utilize the access from Route 32 to avoid impacts on local roads.

As a result of these changes to the land use plan for Hudson Landing the trip generation estimate for the proposed project during the three peak periods has been reduced between 40% and 50% during each peak hour. A "trip" is defined as either an entering or exiting movement – not a round trip. It should be noted that, since this analysis was prepared, the number of housing units proposed has been reduced by an additional 4%.

The updated plan results in site generated traffic reductions on local roads ranging from about 5% to 75%. It is important to note that although the revised development plan results in reductions from the original development plan, the proposed project will still significantly increase traffic volumes on local roads near the project site. Increased traffic volumes on local roads as a result of Hudson Landing are considered an impact that cannot be fully mitigated. However, even with the increases the daily volumes on the local roads will be within the volume thresholds for "local" roads, based upon industry guidance, since peak hour volumes rarely exceed 10% of average daily traffic. Based on this formula, the maximum site generated traffic on any local road will not exceed 2,240 vehicles per day.

Based on the updated plan, mitigation measures are required at four study area intersections, as follows:

- (1) Route 32 / Main Street – Provide a southbound exclusive left-turn lane and install a traffic signal with construction of Phase III.
- (2) Frank Sottile Boulevard / Route 32 – Provide a second northbound left-turn lane with construction of Phase IV. Frank Sottile Boulevard will require widening to accommodate the improvement. The conceptual highway improvement plan provided by John Meyer Consulting indicates that there is sufficient right-of-way to accommodate the recommended improvement. An alternative that should be investigated prior to construction is installation of a modern roundabout at this location which will also serve to provide an entrance/transition to the Kingston urban area.
- (3) Site Driveway / Route 32 – The site driveway approach to Route 32 should provide separate left and right-turn lanes. A northbound exclusive right-turn lane and a southbound exclusive left-turn lane should be provided on Route 32 during construction of Phase I. Installation of a semi-actuated traffic signal with protected southbound left-turn phasing should be provided during Phase II of construction.
- (4) Flatbush Avenue / Albany Avenue – Stripe a southbound left-turn lane and provide traffic signal timing modifications with construction of Phase IV.

Based on the land use and access changes in the revised plan and completion of the mitigation improvements, level of service at the intersections affected by the project will be as follows:



Table 4 – Updated Plan Level of Service Summary

Intersection		Control	AM Peak Hour			PM Peak Hour			Saturday Peak Hour		
No.	Name		Ex	NB	Bu	Ex	NB	Bu	Ex	NB	Bu
1A	Rt 32/Rt 199 EB	S	---	---	A	---	---	B	---	---	A
2A	Rt 32/Rt 199 WB	S	---	---	A	---	---	B	---	---	A
3	Rt 32/Main	U	C	D	E	D	F	F	C	D	C
3A		S	---	---	A	---	---	B	---	---	B
4	Rt 32/Frank Sottile	S	A	B	B	A	B	B	B	F	D
4A		S	---	---	B	---	---	B	---	---	C
5A	Rt 32/Site	S	---	---	A	---	---	C	---	---	C
6	Rt 32/Old Flatbush	S	A	B	B	A	B	C	A	B	C
7	Rt 9W SB/Rt 32 & 9W	U	A	B	B	B	D	D	B	D	D
8	Rt 9W/Rt 32 & 9W	S	B	C	C	B	C	C	B	B	B
9	Delaware/Rt 9W NB	S	A	A	A	A	A	A	A	A	A
10	Delaware/Rt 9W SB	S	A	A	A	A	A	A	A	A	A
11	Delaware/ Murray	S	B	B	B	B	B	B	B	B	B
12	Delaware/North	U	A	B	B	A	C	C	A	C	D
13	Flatbush/Albany	S	B	B	C	A	B	C	A	A	B
13A		S	---	---	B	---	---	B	---	---	A
14	Hasbrouck/E Chester	S	B	B	C	B	C	C	B	B	B
15	Hasbrouck/W O'Reilly	U	A	A	A	A	A	A	A	A	A
16	E Strand/W Strand	U	A	A	A	A	A	A	A	B	B
17	First/Delaware	U	A	B	B	B	C	C	B	B	B

Key: Ex, NB, Bu = Existing, No-Build, and Build conditions  
S, U = Signalized or Unsignalized intersection control  
The level of service displayed for unsignalized intersections is the approach or movement with the worst level of service.  
The level of service displayed for signalized intersections is the overall intersection level of service.  
Intersections with proposed control or capacity improvements as mitigation measures are identified with an 'A'.

With the proposed improvements all study area intersections are expected to operate at level of service D or better. As noted earlier, there will be a noticeable increase in traffic volumes on local roads with construction of Hudson Landing. However, the combination of the reduced trip generation, modified access plan, and intersection mitigation measures are very effective

in reducing project impacts to local roads. The development plan changes and intersection improvements also generally result in local road traffic volumes of less than 4,000 vpd which is considered the maximum volume to preserve the "quality of life" of neighborhoods along a local road.

## **2. Conditions and Thresholds**

### **a. Additional Conditions to Ensure Continued Effectiveness of Mitigation Measures**

The project is expected to be constructed over a 15- to 20-year build-out and relies on several assumptions about future conditions including construction of the Frank Sottile Boulevard Extension and several other developments throughout the City of Kingston. To ensure that the proposed mitigation measures are appropriate and effective, supplemental traffic evaluations must be considered prior to each future phase of development. Therefore, the applicant will be required to provide updated traffic counts at intersections specified by the lead agency upon substantial completion of each phase. If such counts reveal an increase in volumes 10% or more above those projected in the traffic study prepared for the FGEIS the Applicant may be required to complete additional traffic studies including turning movement traffic counts at approved intersections, actual trip generation from phases already constructed, specific trip generation estimates for future phases, level of service analysis, and a full signal warrants analysis. The scope of any supplemental traffic study must be approved by the lead agency prior to initiation and acceptance of the study.

It is important that Hudson Landing have connections to the Rondout neighborhood in order to establish it as an integral part of the waterfront community. Therefore, North Street shall be opened as a City street no later than upon completion of the second phase of development, unless, based on monitoring by the Applicant, traffic volumes indicate that such a connection may be deferred until a later phase. Such a connection will also ensure that traffic generated by Hudson Landing does not adversely impact other local streets, such as First Avenue.

### **b. Thresholds for a Supplemental EIS**

An SEIS may be required if turning movement traffic counts, actual trip generation from constructed phases, or site specific trip generation estimates increase significantly, or land use changes are proposed that affect the conclusions of the original analysis. In such cases, additional analysis must

be undertaken following approval of a Scope in accord with SEQRA procedures.

**3. Findings**

The Planning Board has reviewed the updated traffic analysis and proposed mitigation measures submitted with the revised plan included in the FGEIS and finds that the impacts identified in the plan which was the subject of the DGEIS will be mitigated or avoided to the maximum extent practicable. The Board also finds that the conditions established herein, in conjunction with the detailed review required of subsequent site plan submission and with the periodic monitoring of traffic conditions will ensure that potential traffic impacts are avoided to the maximum extent practicable.

**L. Land Use Planning and Zoning**

**1. Potential Impacts and Mitigation Measures**

**a. Impacts Generated by the Original DGEIS Plan**

The DGEIS plan would have resulted in reuse of a site that was extensively disturbed and, in its vacant and unused state, and was not contributing in any productive way to the economic, social or recreational resources of the City or Town. However, the development plan was comprised of relatively homogeneous elements which occupied almost all of the Hudson River frontage as well as inland sites with significant scenic and natural resources. Rather than create traditional urban neighborhoods similar to those elsewhere in the surrounding area, it established an overwhelming suburban presence. In short, an opportunity was missed to create a development consistent with current "smart growth" principles and the City and state coastal policies.

**b. Mitigation Measures Incorporated in the FGEIS**

**(1) Plan Redesign**

The primary mitigation measure incorporated in the FGEIS was a major redesign of the basic plan for the site. The Hudson Landing Plan has been developed as a compact mixed use community developed in accord with Traditional Neighborhood Development principles, also known as "Smart Growth". These concepts have been accepted as a means to, among other things, reduce the effects of sprawl, reduce visual impacts, preserve open space and vegetation

where appropriate, and create neighborhoods that are attractive and friendly to residents and visitors alike which are in harmony with the older surrounding neighborhoods. Large areas of the project site will be set aside for preservation, including the forested areas located along the ridge line above the South Cove Neighborhood and a 1,000 foot wide natural corridor to be established between the North and South Cove Neighborhoods along the shoreline of the Hudson River. In all, approximately 350 acres of the 500 acre site will be set aside for open space. The proposed community will be integrated into existing surrounding neighborhoods by way of connections with existing roadway, pedestrian and public transit links. The project site is located within existing and planned sewer and water districts with ample capacity to support the full build out of the development. The redesigned plan also assures that both visitors as well as neighborhood residents will have access to the Hudson River and its shoreline.

Neighborhoods are the primary building blocks that support larger regional centers such as towns, villages and cities. The basic criteria to support a neighborhood include the following elements which are incorporated in the revised plan.

- An appropriately scaled core of neighborhood commercial space such as retail, office, restaurant, etc. to support the community.
- Each neighborhood should be contained within an approximate ¼ mile walking distance from the periphery to the community core.
- The neighborhood core and all related elements such as housing, civic uses, transportation hubs and open space should be connected by sidewalks, paths and other on-grade transportation options.
- Traditional streetscape standards should be utilized to form a composite network of interconnected streets.
- Mixed use buildings as well as community open space (village greens) should form the community core.
- A range of housing types and densities should exist with an optimal maximum density at the core of the community and lower densities at the periphery.

- An identifiable neighborhood with its periphery defined by either open space, a low density transition to another neighborhood or a hard edge created by a natural feature such as a river or mountain or man-made feature such as a highway.

(2) Enactment of New Zoning

The City of Kingston had adopted a new zoning district to implement its LWRP policies (the Hudson Riverfront District). However, at the time of that enactment, the planning concepts of traditional neighborhood developments had not fully emerged. But today those concepts are fully evolved. Thus, it was determined during the review of Hudson Landing that new zoning regulations more specifically oriented towards design and implementation of traditional neighborhood development were appropriate for both the City and the Town. Therefore, a new Traditional Neighborhood Development Overlay District (TNDOD) will be enacted by both communities. The TNDOD will provide a landowner the option to develop either under the existing zoning regulations for the site or to request that the site be designated as a TNDOD District which establishes procedures under which the site can be rezoned as well as specific standards and guidelines for development.

The major tool in the TNDOD to ensure realization of the revised plan for the site, which is based on traditional neighborhood development principles, is the requirement that a Regulating Design Manual be prepared and approved prior to development. The Regulating Design Manual will define development and open space areas, delineate smaller sub-areas by use, housing types, building height, lot size and similar development standards in each sub-area. The manual will also include design guidelines which will govern general community character for the project as well as architectural guidelines which will address acceptable architectural styles, building massing, roof slopes, exterior materials, window and door types, etc. In addition, the manual will incorporate site plan parameters such as roadway standards, alley standards, on street parking standards, curbs, sidewalks, street trees, lighting, signage, etc. Also, building setbacks, building heights and general lot topologies will be defined for the different residential, commercial and mixed use sub-areas. Lastly, development guidelines will include details which will guide development of the open space such as promenade detailing, landscaping, seating areas, signage, etc., as well as details for the upland hiking trails and overlooks.

Together, this new zoning district and Regulating Design Manual will combine to help realize the vision of developing this site according to traditional neighborhood planning principles, something which the lead agency, the public and the Applicant have all supported.

## **2. Conditions and Thresholds**

### **a. Conditions**

- (1) Local laws establishing TNDOD districts covering the site of the Hudson Landing project must be enacted by both the City of Kingston and the Town of Ulster. The enacted legislation must be in substantially the same form as the proposed legislation which is attached to this Findings Statement as Appendix \_\_\_\_.
- (2) The applicant shall comply with the requirements of the TNDOD district in obtaining site plan approval for the project including approval of a Regulating Design Manual as prescribed by the TNDOD legislation
- (3) Throughout the development process, site plans, architectural plans, proposed streets, landscaping and open space will be reviewed by the City and Town Planning Boards to determine conformance with the Regulating Design Manual.

### **b. Thresholds for a Supplemental EIS**

An SEIS may be required if:

- (1) Significant amendments to the provisions of the TNDOD district are proposed
- (2) Proposed plans are determined to significantly vary from the standards of the Regulating Design Manual.

## **3. Findings**

The Planning Board has reviewed the land use plan and Regulating Design Manual submitted with the FGEIS as well as the proposed TNDOD district legislation and finds that the final impacts identified in the plan which was the subject of the DGEIS have been mitigated or avoided to the maximum extent practicable. The Board also finds that the conditions established herein, will ensure that land use plans will be implemented and adverse impacts are avoided to the maximum extent practicable.

**M. Open Space, Public Access and Recreation**

**1. Potential Impacts and Mitigation Measures**

**a. Impacts Generated by the Original DEIS Plan**

The original plan proposed virtually continuous development in the area between North Street and the river. Although a waterfront promenade was proposed, it was a narrow strip between the river and the proposed development with no connections to interior upland open space. Development was proposed in upland areas of mature forest and immediately above the dramatic cliffs in the southern portion of the project site.

**b. Public Access and Recreation in the Revised FGEIS Plan**

The revised Plan has expanded considerably the public open space planned for the development.

Central Core Open Space Area - The Plan includes an approximately 20-acre central open space area along the waterfront between the North and South Cove neighborhoods. This open space includes a minimum of 1,000 feet of riverfront and extends from the shoreline to the inland escarpment to provide a significant visual and functional break between the North and South Cove neighborhoods and offers important public recreational opportunities. Restored and reclaimed non-jurisdictional wetlands are included in this area as well as stormwater facilities.

Waterfront Promenade - The revised plan includes a public promenade extending nearly one-mile along the waterfront. This waterfront trail provides opportunities to walk, jog and bicycle along a currently inaccessible portion of Hudson River waterfront. The promenade will connect numerous public recreational nodes and access points and offer outstanding views of the Estates District Scenic Area of Statewide Significance on the eastern shoreline. Public parking and car-top boat access is provided at the northern terminus of the Promenade in East Kingston and at the southern terminus at South Cove. The promenade is set in an expanded open space between the river and proposed development and a clear separation between public open space and private property is established.

Public benches and gazebos will provide places for rest and passive enjoyment of the waterfront. Additional parking and trail access will be available within the North and South Cove neighborhoods. Since the Promenade extends to the north and south ends of the Hudson Landing property with upland links to First Avenue, the trail can ultimately provide a complete and important link to a greater Greenway trail network in this portion of the Hudson Valley. The Promenade will include interpretive kiosks highlighting the industrial heritage of the site including various brick works and icehouses that once dominated the site. In addition, a right-of-way has been reserved along the Promenade for future use by trolleys.

Upland Open Space -- Under the revised Plan, all development has been removed from the ridgeline to minimize visual impact from the Hudson River and east shore vantage points. Development is also no longer proposed in the secondary old growth woodland area in the south-center of the site. A 2,000 square foot Environmental Education Center will be developed along North Street between the North and South Cove Neighborhoods to accommodate local public educational programs and tours, promote tourism to the city and further the objectives of the City's Local Waterfront Revitalization Program (LWRP). The project includes an extensive system of walking trails connecting the upland open space with the North Cove and South Cove neighborhoods as well as the waterfront Promenade. The trail system will extend along the escarpment to provide outstanding views across the Hudson River to the Estates District SASS and of the unique mine quarries and geology of the site.

Kayak Launch Area - Sites for kayak launching and direct access to the water's edge will be established in both the South Cove and North Cove neighborhoods.

## 2. Conditions and Thresholds

### a. Conditions

- (1) The Applicant shall work with the City and Town to develop an open space management plan to provide stewardship and maintenance of all permanent open space.
- (2) The waterfront promenade to be located within the first development phase shall be completed in its entirety upon completion of 50% of the dwelling units in that phase.
- (3) An access way shall be completed along the entire river frontage of the site to serve as an interim promenade prior to the start of the second



phase of development. Such temporary promenade may include a gravel or comparable surface and follow existing paths or roadways where possible to provide a continuous pedestrian route along the waterfront until a permanent promenade is built. The final promenade may follow a different route from this interim access way.

**b. Thresholds**

An SEIS may be required if significant reductions or modifications of open space lands are proposed.

**3. Findings**

The Planning Board has reviewed the open space plan included in the FGEIS and finds that the impacts identified during the environmental review process have been mitigated or avoided to the maximum extent practicable. The Board also finds that the conditions established herein, will ensure that open space plans will be implemented and adverse impacts are avoided to the maximum extent practicable.

**N. Regional Transportation**

**1. Potential Impacts and Mitigation Measures**

**a. Impacts Identified in the DGEIS**

Construction of Hudson Landing will have minimal impact on regional transportation and these impacts are only related to various forms of mass transit. As a major residential development within commuting distance of New York City, it is expected that a number of residents will commute to and from New York City via the Rhinecliff Amtrak station located just across the Hudson River or via the Poughkeepsie station. The Rhinecliff Amtrak station has a parking shortage and additional patrons from *Hudson Landing* will exacerbate an existing deficiency.

**b. Mitigation Measures in the FGEIS Plan**

A shuttle service will be provided by the Homeowner's Association as required between the site and train station(s). The specific shuttle service needs and routes will be determined as the development of the project progresses and will ultimately be determined by the Homeowner's Association.

A new ferry service to Rhinecliff has recently been announced to serve tourists and, possibly in the future, commuters. The City of Kingston has been awarded a grant to study the feasibility of such ferry service. The study is expected to start in the summer of 2009 and may provide the basis for long term action.

The City of Kingston owns and operates CitiBus. Portions of the *Hudson Landing* project are located within reasonable walking distance to existing CitiBus stops along bus Routes A and C. Through discussions between the applicant and CitiBus, Citibus has agreed to provide additional service to the project as needed. CitiBus's approach will be to provide service initially by extending an existing route and determining the actual demand for service. If necessary, a new route will be added. The applicant is required to submit the site plan of each project stage to CitiBus for their review prior to finalization to ensure that site features conform to CitiBus's equipment and operational procedures.

Paratransit bus service is available through Kingston CitiBus. Those wishing to use this service must be approved through an application process. The current service is at capacity. The applicant will assist the City with the purchase of a new paratransit bus or van should there be a need for this service to residents of the project.

**2. Conditions**

- a. The Homeowners Association prospectus for Hudson Landing shall include provision for a shuttle or vanpool to the Rhinecliff and/or Poughkeepsie train stations. The project sponsor shall make the HOA prospectus available to the City for review prior to submission to the NYS Attorney General and shall file a copy of the approved prospectus with the Planning Board.
- b. The Applicant shall cooperate in any feasibility study of ferry service initiated by a recognized agency.

**3. Findings**

The Planning Board has reviewed the revised plan included in the FGEIS and finds that the potential impacts on regional transportation identified in the plan which was the subject of the DGEIS have been mitigated or avoided to the maximum extent practicable. The Board also finds that the conditions established herein, will ensure that potential impacts to regional transportation are avoided to the maximum extent practicable.

## **O. Cultural and Historic Resources**

### **1. Potential Impacts and Mitigation Measures**

#### **a. Significant Impacts of the DGEIS Plan**

The Hudson Landing waterfront was extensively altered by numerous industries including brick makers and cement mines. The upland portions of the site have also been extensively disturbed by past mining and quarrying activities. Despite this, small pockets of undisturbed land with the potential for Native American sites and extensive archeological evidence of the 19<sup>th</sup> and 20<sup>th</sup>-century industries remain on the property. The development plan as originally presented would have impacted cultural and archeological resources that the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) considered eligible for listing on the National Register.

These historic properties were identified during the course of Phase IA, Phase IB, and Phase II archeological studies undertaken by Columbia Heritage, Ltd., and Hunter Research on behalf of the applicant.

The original Phase I report completed by Columbia Heritage, Ltd was submitted to OPRHP in 2006. After review by OPRHP, local residents and community groups, as well as Hartgen Archeological Associates Inc., several deficiencies were noted in the survey. Subsequently, a revised Phase IA and IB report was provided by Columbia Heritage Ltd. and it too was deemed incomplete relative to its proposed scope and deficient according to the standards of New York cultural resource practices. As a result, additional surveys were undertaken by Hunter Research, Inc., which utilized OPRHP's comments (and later consultation) as the basis and structure for their work (OPRHP 2006).

In 2007, Hunter submitted the results of their Phase IB archeological work and provided photographs of extant structures in and around the project area. Nine archeological sites (and complexes) were identified during the Phase IB study. Additional Phase II testing was performed at six of these sites to evaluate their eligibility for listing on the National Register of Historic Places. Based on the archeological studies, the Lost Lake Mine Site, the Hudson Landing Precontact Site, Terry Brickyard and Icehouse Complex, C.A. Schultz Brickyard and the William Terry Icehouse were recommended to OPRHP as eligible for the National Register. Hunter Research

recommended that the sixth site, the Smith Farmstead was not eligible for the National Register. The remaining sites were not deemed eligible for the National Register.

Subsequently, OPRHP reviewed the report and has determined that the Hudson Landing Precontact Site, Terry Brickyard & Icehouse Site, C.A. Schultz Brickyard Site, Lost Lake Mine, William Terry Icehouse Site are eligible for listing on the National Register. OPRHP also determined that the Smith Farmstead was eligible for the National Register, despite the recommendations to the contrary by the applicants' consultant. In addition, the Schultz Brickyard Mule Barn and Shultz Brickyard Chimney, two standing elements in the former brickyard were also determined to be eligible.

**b. Mitigation Measures Considered**

The applicant has proposed to mitigate the potential impacts to these resources by 1) avoiding the Hudson Landing Precontact site, the Lost Lake Mine site, and the William Terry Icehouse, 2) conducting Data Retrieval Excavations (Phase III archeology) on the Schultz Brickyard Complex, the Smith Farmstead site, and possibly the Terry Brickyard site (depending on the proposed depth of disturbances), 3) stabilizing and rehabilitating the Schultz Brickyard Mule Barn and 4) placing interpretive displays and signage throughout the project, as well as possible reconstructions of the former brickyard building, and/or exposing the remains for public viewing.

These measures of avoiding, mitigating, and interpreting archeological sites and remains are consistent with the current cultural resource management practices in New York. Therefore the revised construction plan, data retrieval excavations, and rehabilitation of the historic structure and historic interpretation program will mitigate the potential impacts to these cultural and historic resources as proposed by the Hudson Landing project.

**2. Conditions**

The Phase III, data retrieval excavations cannot take place until OPRHP has reviewed and approved the workscope. The data retrieval excavations will take place as the various construction phases advance. Permits to advance to the next construction phase will be contingent upon the completion of the data retrieval excavations and acceptance of the report by OPRHP.

The applicant shall rehabilitate and interpret the Shultz Brickyard Mule Barn and Chimney as a condition of approval. The applicant shall develop and submit plans for that rehabilitation and interpretation and the adaptive reuse of those structures.

Also NYS OPRHP shall be consulted once plans are developed for the rehabilitation and interpretation of the Shultz Brickyard Mule Barn and Chimney and any plans and adaptive reuse of those structures shall comport with the NYS OPRHP requirements.

**3. Findings**

The Planning Board has reviewed the revised plan included in the FGEIS and finds that the potential impacts on cultural and historical resources identified during the environmental review process have been mitigated or avoided to the maximum extent practicable. The Board also finds that the conditions established herein, will ensure that potential impacts to cultural and historical resources are avoided to the maximum extent practicable.

**P. Noise**

**1. Potential Impacts and Mitigation Measures**

**a. Significant Noise Impacts Generated by the Original Plan**

The DGEIS plan resulted in traffic volume increases along local roads that ranged from minor increases to nearly 30 times existing volumes.

**b. Mitigation Measures Incorporated into Updated Plan**

There are three major changes between the original DGEIS plan and the updated FGEIS plan for Hudson Landing. These changes are the size and mix of land uses, the access plan, and the approach to the development phasing which shifts initial site development from the southern end of the site to initial development at the northern end, on the City/Town line. The updated plan proposes a reduction in the number and type of residential units and the size and type of retail land uses. Rather than large scale retail, the updated plan proposes support retail within the development. Access to the updated plan is proposed via Route 32 during the first phase of development with full access to local roads in the later stages of development.

**(1) Reduced Traffic Volumes**

These changes result in reduced traffic and consequently reduced traffic noise impacts to residents and other receptors along the affected roadway network. The increase in traffic along First Avenue/Main

Street has been reduced from nearly 30 times existing volumes to less than seven times. Traffic noise levels along this section may still constitute an impact as noted in the updated plan; however, the traffic re-routing has reduced this potential impact markedly.

(2) Regulation of Construction Activity

Mitigation methods to minimize impacts during construction were added to the revised DGEIS as follows:

- (a) Proper maintenance of construction equipment (including mufflers)
- (b) Limiting idling of construction vehicles
- (c) Strategic placement of waste disposal and supplies
- (d) Coordination of construction times
- (e) Development of a communication mechanism for the community

The revised DGEIS also stated that the project will adhere to the City of Kingston Noise Control Law (Sections 300-5 and 300-6). The law states that construction noise is not regulated between the hours of 8 AM and 6 PM. However, if work is to be conducted outside these hours, noise levels must not exceed 60 dBA between 7 AM and 8 AM or between 6 PM and 10 PM. Additionally, construction noise levels must not exceed 55 dBA before 7 AM and after 10 PM. There may be occasions where the applicant may wish to work outside the permitted construction hours. These instances will require a Special Permit from the City.

The Town of Ulster noise code that requires functioning mufflers was also satisfactorily included in the revised DGEIS as a compliance statement.

2. **Conditions**

- a. The proposed project is expected to be constructed over a 15- to 20-year build-out and relies on several assumptions about future conditions including construction of the Frank Sottile Boulevard Extension and several other developments throughout the City of Kingston. To ensure that the proposed mitigation measures are appropriate and effective, completion of supplemental traffic analyses shall be considered with each future phase of development. The applicant has agreed to complete additional traffic studies

as needed and the completion of those studies shall be a condition of approval. With these studies, any changes in traffic volumes will require an assessment of potential traffic noise changes.

- b. Construction noise, in general, will typically generate sporadic complaints. Periodic noise level monitoring during construction will be scheduled if requested by the City or Town and if additional measures to mitigate construction noise are required, these should be undertaken as necessary.

### **3. Findings**

The Planning Board has reviewed the noise related materials submitted with the revised plan included in the FGEIS and the supplemental noise studies and finds that the noise impacts identified during the environmental review will be mitigated or avoided to the maximum extent practicable. The Board also finds that the conditions established herein, in conjunction with the detailed review required of subsequent site plan submissions, will ensure that potential noise impacts are avoided to the maximum extent practicable.

## **Q. Air Quality**

### **1. Potential Impacts and Mitigation Measures**

#### **a. Significant Impacts Generated by the DGEIS Plan**

Air quality impacts are directly related to the volume of traffic in the study area. The original plan resulted in traffic volume increases along local roads that ranged from minor increases to nearly 30 times existing volumes. Discrepancies between the data presented in the traffic study and the air quality assessment required supplementary analysis.

#### **b. Mitigation Measures Incorporated into Updated Plan**

There are three major changes between the original and the updated plan for Hudson Landing. These changes are the size and mix of land uses, the access plan, and the approach to the development phasing which shifts initial site development from the southern end of the site to initial development at the northern end, on the City/Town line. The updated plan proposes a reduction in the number and type of residential units and the size and type of retail land uses. Rather than large scale retail, the updated plan proposes support retail within the development. Access to the updated plan is proposed via Route 32 during the first phase of development with full access to local roads in the later stages of development. These changes

result in reduced site-generated traffic and consequently reduced air quality impacts to residents and other receptors along the study area roadway network.

The updated air quality evaluation, which includes the most recent traffic data, confirms that development of Hudson Landing will not result in any violation of air quality standards in regards to carbon monoxide microscale and mesoscale analyses. The changes in the size and mix of land uses and the resulting reduction in site-generated traffic minimize the potential for air quality impacts. No mitigation measures are needed or recommended.

There is potential for short-term air quality impacts caused by construction activities. The Applicant will follow the best management practices contained in the New York State Department of Transportation Standard Specifications for Construction to minimize these potential impacts.

Additional updated evaluation also shows that development of *Hudson Landing* will not violate Particulate Matter (PM10 and PM2.5) air quality standards. The changes in the size and mix of land uses and the resulting reduction in site-generated traffic minimize the potential for air quality impacts. No mitigation measures are needed or recommended.

## **2. Conditions**

The proposed project is expected to be constructed over a 15- to 20-year build-out and relies on several assumptions about future conditions including construction of the Frank Sottile Boulevard Extension and several other developments throughout the City of Kingston. To ensure that the proposed mitigation measures are appropriate and effective, completion of supplemental traffic analyses must be considered with each future phase of development. The applicant has agreed to complete additional traffic studies as needed. With these studies, any increases in traffic volumes may require an assessment of potential air quality impacts.

## **3. Findings**

The Planning Board has reviewed the air quality related materials submitted with the revised plan included in the FGEIS and the supplemental particulate matter studies and finds that there will be no violation of the State or National ambient air quality standards associated with the project and only short-term construction-related mitigation is necessary. The Board also finds that the conditions established herein, in conjunction with the detailed review required of subsequent site plan submissions, will ensure that potential air quality impacts are avoided to the maximum extent practicable.



**R. Cumulative, Secondary and Growth-Inducing Impacts**

The Planning Board determined that the cumulative impacts of the adjacent Sailor's Cove on the Hudson project as well as any other projects proposed in the vicinity should be considered and analyzed in the Environmental Impact Statement for the Hudson Landing project.

While a Generic Environmental Impact Statement for both projects was considered as a possible means to study the cumulative impacts, ultimately the Planning Board recognized that there are compelling reasons for keeping the Sailor's Cove on the Hudson and Hudson Landing projects administratively distinct. These reasons include that these projects: are proposed by separate private applicants; are significantly disparate in terms of the land area involved and the number of units proposed, and are likely to proceed along the paths of site plan and environmental review at different speeds. Consequently, the Planning Board determined that the best way to consider the cumulative impacts of these projects was to require the applicants in each project to include an analysis of cumulative impacts in each of their respective site-specific Environmental Impact Statements. As it developed, this decision was well grounded since the DEIS for Sailor's Cove was not sufficiently complete for acceptance by the lead agency until three years after acceptance of the DEIS for Hudson Landing.

Consequently, the cumulative impact of Hudson Landing and the adjacent Sailor's Cove project were considered during preparation of the DGEIS for Hudson Landing. In the FGEIS, the cumulative impacts of the revised plan and the Sailor's Cove project were evaluated including issues related to traffic, public water supply, wastewater treatment, community services, and fiscal consideration. The evaluations are based on the Traditional Neighborhood Plan, which has proven to significantly lessen impacts through implementation of a variety of mitigation measures. In essence, the Plan is an alternative design which minimizes identified cumulative impacts to the maximum extent practicable.

**IX. CONSISTENCY WITH STATE AND LOCAL COASTAL POLICIES**

**A. Discussion of Consistency Provisions and Jurisdiction**

The United States Coastal Zone Management Act (CZMA) strives to preserve and protect the resources of the United States' coastal zone. The US CZMA encourages the states to develop

and implement Coastal Zone Management Programs (CZMP) that balance natural resource protection with compatible coastal development.

New York State (NYS) has established its CZMP in the State Waterfront Revitalization of Coastal Areas and Inland Waterways Act. That statute includes provisions to assure consistency of state actions, and where appropriate, federal actions, with the policies of the coastal area and inland waterways.

As part of the State CZMP, the State has promulgated policies for guiding development in the coastal zone. In addition, the New York State program also authorizes governments at the local level to develop their own plans for their waterfront areas, called Local Waterfront Revitalization Program (LWRP). An LWRP is both a plan and a program. The term refers to both a planning document prepared by a community, as well as the program established to implement the plan. In partnership with the New York Department of State (NYSDOS) State Division of Coastal Resources, a municipality develops community consensus regarding the future of its waterfront and refines State waterfront policies to reflect local conditions and circumstances. At the local government level, local municipalities with adopted LWRPs enact similar consistency provisions applicable to their decision-making. Local municipal agencies are required to follow the procedures established by their municipality to assure consistency of local activities with the adopted LWRP. Once approved by the NYSDOS, the local program serves to coordinate State and federal actions needed to assist the community in achieving its vision.

Most of the project is located in the coastal zone of the City of Kingston, which does have an adopted and NYSDOS-approved LWRP. The Kingston LWRP provides a detailed comprehensive land and water use plan for the City's waterfront area. Each agency of the City which must issue an approval for any action related to Hudson Landing will be required (under the City's Waterfront Consistency Review Law) to issue a determination that the action is consistent with the City's LWRP. Under the City of Kingston Local Consistency Review Law (Local Law No. 4 of 1992) prior to such a determination, the Kingston Heritage Area Commission must be requested for an advisory opinion regarding the consistency of the action with the policies of the LWRP. At its meeting on February 18, 2009, the Heritage Area Commission issued an opinion that the Hudson Landing project is consistent with the City's LWRP and all relevant policies. This opinion is attached hereto as Exhibit C.

A portion of the proposed North Cove neighborhood of the project is located on land in the Town of Ulster. The Town of Ulster does not have an adopted LWRP. Thus, any actions requiring a consistency determination within this area will require application of the State's CZMP and applicable State coastal zone policies.

No federal permits are required for the project as presently proposed. Therefore, there will be no consistency determinations made directly by NYSDOS. State permits will be required for the project. Each State agency issuing a permit will be required to render a consistency determination utilizing the policies in the Kingston LWRP for actions within the City of

Kingston and the State's Coastal policies for actions in the Town of Ulster. In these instances, NYSDOS will act in an advisory capacity to assist those State agencies in complying with the statutory requirements.

During the course of the environmental review of this project by the City of Kingston Planning Board pursuant to the State Environmental Quality Review Act (SEQRA), the Planning Board has considered the issue of the consistency of this project with the City of Kingston LWRP and has received detailed comments from the NYSDOS Division of Coastal Resources and the public. The issue of the consistency of this project with the City of Kingston LWRP and applicable State Coastal policies is discussed in the FGEIS in Section 3.7.4.

**B. Procedures for Consistency Determination of Future Actions**

Prior to approval of any individual action by a City of Kingston agency, a consistency determination shall be made by the responsible agency. It shall not, however, be necessary for the Planning Board to refer each specific application for approval of a site plan, special permit or subdivision to the Heritage Area Commission unless:

- a. The action is not in compliance with the Regulating Design Manual approved for Hudson Landing, or
- b. the action is an amendment or revision to the Regulating Design Manual

**X. PARAMETERS FOR FUTURE SEQR REVIEW**

Future SEQRA review of individual development phases shall be determined by utilization of the Conditions and Thresholds set forth in this Statement of Findings. If the reviewing agency determines that individual site plans and any supplemental documentation submitted (such as a SEQRA Full Environmental Assessment Form) fall within applicable Conditions and Thresholds set forth in this Statement of Findings then, as authorized under 6 NYCRR 617.10(d)(1), no further SEQR review or compliance shall be required. If there is deviation from any Condition or Threshold, further SEQRA review will be required including the issuance of a determination of significance and, if warranted, preparation of a Supplemental EIS.

**XI. IMPLEMENTATION**

Individual site plans submitted by the applicant shall be required to incorporate and comply with these Findings and, to the extent applicable and feasible, incorporate these

findings with appropriate map notes or accompanying narratives. No site plan, special permit or subdivision plat will be approved that is inconsistent with these Findings.

In order to ensure that all mitigation measures contained within these Findings are performed, the Applicant and appropriate City agency shall enter into a Developer's Agreement prior to final approval of the first submitted plan in which the applicant agrees to undertake full and satisfactory performance of all mitigation measures contained in these Findings.

The conditions established throughout this Findings Statement shall remain in effect and be enforced throughout the development of the Hudson Landing project, unless specifically modified by the City of Kingston Planning Board.

## **XII. SUMMARY OF FINDINGS AND CONDITIONS**

After a careful, complete and thorough study and analysis, the lead agency (the City of Kingston Planning Board) has determined that the proposed Hudson Landing Development, as depicted on the FGEIS Site Plan, the proposed Design Regulating Manual, and in all of the supporting documents included in the FGEIS, will mitigate or avoid, to the maximum extent practicable, all potential adverse environmental impacts. As required by SEQRA, and in particular Section 6 NYCRR 617.11 of the SEQRA Regulations, this Findings Statement sets forth in detail the considerations that the City of Kingston Planning Board has weighed over the course of the environmental review process and the rationale and reasoning behind its determination.

Each of the findings set forth in this Statement with regard to individual potential adverse impacts is based on information gleaned from the entire record of material which has come before the Planning Board during the course of this environmental review.

As is demonstrated by the record, and as is required by SEQRA, the Planning Board has carefully weighed the environmental impacts against the economic and cultural benefits. Based on this process of careful consideration, the Planning Board has not only concluded that the FGEIS plan will mitigate or avoid all potential adverse environmental impacts to the maximum extent practicable, but has also concluded that, after such weighing and balancing, approval of the Hudson Landing Development is in the best interests of the people of this community.

Thus, the Planning Board deems it appropriate that the Applicant comply with these findings and the conditions established herein as well as any subsequent conditions imposed by the Planning Board during the forthcoming detailed site plan review. The

Applicant shall also comply with the conditions established in the Findings Statement issued by any other Involved Agency in connection with this project.

### XIII. CERTIFICATION OF FINDINGS TO APPROVE, FUND OR UNDERTAKE

Having considered the DGEIS and FGEIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617.9, for all the reasons set forth in this Statement of Findings, we certify that:

1. The requirements of 6 NYCRR 617 have been met; and
2. Consistent with social, economic and other essential considerations from among reasonable alternatives there to, the action approved is one which minimizes or avoids adverse environmental effects to the maximum extent practicable; including the effects disclosed in the environmental impact statement; and
3. Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects revealed in the environmental impact statement process will be minimized or avoided by incorporating as conditions to the decision those mitigative measures which were identified as practicable; and
4. Consistent with the applicable policies of Article 42 of the New York State Executive Law, as implemented by 19 NYCRR 600.5, this action will achieve a balance between the protection of the environment and the need to accommodate social and economic considerations.

CITY OF KINGSTON PLANNING BOARD  
Lead Agency

Signature of Responsible Official: Lee Molyneux by SA

Name of Responsible Official: LEE MOLYNEAUX

Title of Responsible Official: Chairman, City of Kingston Planning Board

Date of Signature: April 13, 2009

Address of Lead Agency: City Hall  
420 Broadway  
Kingston, NY 12401

Findings Statement to be  
Circulated to: INVOLVED AGENCIES / LEAD AGENCY / APPLICANT / MUNICIPAL CEO /  
INTERESTED AGENCIES (SEE FOLLOWING LIST)

**INVOLVED AND INTERESTED AGENCIES  
DOCUMENT DISTRIBUTION CONTACT LISTING  
HUDSON LANDING  
October 2008**

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<p>NYSDOS Coastal Zone Management Consistency Review Unit 41 State Street Albany, New York 12231-0001 Phone: 518-474-6000</p>	<p>Jason Cosenza, Clerk Town of Ulster Town Board 1 Town Hall Drive Lake Katrine, New York 12449 Phone: 845-382-2455 Email: <a href="mailto:ulstertownclerk@yahoo.com">ulstertownclerk@yahoo.com</a></p>
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**INVOLVED AND INTERESTED AGENCIES  
DOCUMENT DISTRIBUTION CONTACT LISTING  
HUDSON LANDING  
October 2008**

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**INVOLVED AND INTERESTED AGENCIES  
DOCUMENT DISTRIBUTION CONTACT LISTING  
HUDSON LANDING  
October 2008**

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Kari Mack, Associate Library Director SUNY UCCC, Macdonald DeWitt Library Cottkill Road Stone Ridge, New York 12484 Phone: 845-687-5215	Barbara Cunningham, Clerk Town of Rhinebeck Town Hall 80 East Market Street Rhinebeck, New York 12572 Phone: 845-876-3409 <b><i>(ON BEHALF OF STARR LIBRARY)</i></b>
Richard Morton Memorial Library 82 Kelly Street Rhinecliff, New York 12574-0157 Phone: 845-876-2903	

<b><i>INTERESTED AGENCIES</i></b>	
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**INVOLVED AND INTERESTED AGENCIES  
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October 2008**

<p>Michael Hein, UC Administrator UC Office Building PO Box 1800 Kingston, New York 12402 Email: <a href="mailto:mhei@co.ulster.ny.us">mhei@co.ulster.ny.us</a></p>	<p>Ned Sullivan Kathleen Fortino (Ned Sullivan's secretary) Scenic Hudson, Inc. 1 Civic Center Plaza, Suite #200 Poughkeepsie, New York 12601 Phone: 845-473-4440 ext. 224 Email: <a href="mailto:kfortino@scenichudson.org">kfortino@scenichudson.org</a></p>
<p>Mary Mangione, Acting Executive Director NYS Hudson River Valley Greenway Capitol Building Capitol Station, Room # 254 Albany, New York 12224 Phone: 518-473-3835 Email: <a href="mailto:mary.mangione@hudsongreenway.state.ny.us">mary.mangione@hudsongreenway.state.ny.us</a></p>	<p>Thomas Trautt, Supervisor c/o Barbara Cunningham, Town Clerk Town of Rhinebeck Town Board 80 East Market Street Rhinebeck, New York 12572 Phone: 845-876-3409 Email: <a href="mailto:town.clerk@rhinebeck-ny.gov">town.clerk@rhinebeck-ny.gov</a></p>
<p>Manna Jo Greene, Env. Director Hudson River Sloop Clearwater 112 Little Market Street Poughkeepsie, New York 12601 Phone: 845-454-7673 Email: <a href="mailto:office@clearwater.org">office@clearwater.org</a></p>	
<p>Ms. Laurie Provenzano, Secretary City of Kingston Historic Landmarks Preservation Commission 5 Garraghan Drive Kingston, New York 12401 Phone: 845-331-1217 Email: <a href="mailto:lprovenzano@ci.kingston.ny.us">lprovenzano@ci.kingston.ny.us</a></p>	<p>Robert J. Goldstein, Senior Attorney &amp; Director of Hudson River Program Riverkeeper 828 South Broadway Tarrytown, New York 10591 Phone: 800-217-4837 Email: <a href="mailto:rgoldstein@riverkeeper.org">rgoldstein@riverkeeper.org</a></p>

**INVOLVED AND INTERESTED AGENCIES  
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<b><i>INTERESTED AGENCIES (CONTINUED)</i></b>	
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Pat Murphy Friends of Historic Kingston PO Box 3763 Kingston, New York 12402 Phone: 845-339-0720 Email: <a href="mailto:fohk@verizon.net">fohk@verizon.net</a>	Gerald Gretzinger, Superintendent Kingston City Schools Consolidated 61 Crown Street Kingston, New York 12401 Phone: 845-339-3000 Email: <a href="mailto:ggretzinger@kingstoncityschools.org">ggretzinger@kingstoncityschools.org</a>
Karen Bullot, President Hudson River Heritage Group 7015 Route 9 Rhinebeck, New York 12572 Phone: 845-876-2474 Email: <a href="mailto:office@hudsonriverheritage.org">office@hudsonriverheritage.org</a>	Paul Economos, Building Inspector Town of Ulster Building Department 1 Townhall Drive Lake Katrine, New York 12449 Phone: (845)340-3883 Email: <a href="mailto:buildinginspector@townofulster.org">buildinginspector@townofulster.org</a>

**Exhibit A**

**PROPOSED TNDOD ZONING AMENDMENT**

## DRAFT ZONING LEGISLATION

### TRADITIONAL NEIGHBORHOOD DEVELOPMENT OVERLAY DISTRICT

BE IT ENACTED by the Common Council of the City of Kingston as follows:

1. Section 405-4 of Chapter 400 of the City of Kingston Code entitled "Districts enumerated" is hereby amended to add the following new zoning district designation:

TNDOD            Traditional Neighborhood Development Overlay District

2. Section 405-5: The Zoning Map of the City of Kingston is hereby amended to designate the following parcels, \_\_\_\_\_, as "TNDOD – Traditional Neighborhood Development Overlay District".

3. Chapter 400 of the City of Kingston Code is hereby amended to add the following new section to Article IV District Regulations:

§405-27. TNDOD – Traditional Neighborhood Development Overlay District

In the TNDOD, Traditional Neighborhood Development Overlay District, the following regulations will apply.

#### A. District Intent and General Purpose.

- (1) The Traditional Neighborhood Development Overlay District (TNDOD) is hereby established to encourage and facilitate redevelopment and adaptive reuse of the former "Tilcon Mining" properties. These former industrial sites comprise approximately \_\_\_\_ acres located along and adjacent to the northern portion of the City's waterfront.
- (2) These properties have been analyzed and considered as part of various waterfront planning efforts conducted by the City including, the City's Local Waterfront Revitalization Program (LWRP)(1992) and the City's Waterfront Development Implementation Plan (2000). In response to contemporaneous development proposals, the City has also conducted more focused planning analyses of these properties. This effort has included application of the policies and principles contained in the waterfront planning studies recited above to various specific development scenarios and the conduct of detailed environmental impact assessment of those development scenarios pursuant to the requirements of the New York State Environmental Quality Review (SEQR) Act.
- (3) The result of these collective planning efforts is the City's desire to create the opportunity for Traditional Neighborhood development at these locations that is consistent with the character and history of the City. Development of traditional

neighborhoods along the riverfront will respect its natural resources and provide attractive, diverse, walkable and culturally vibrant communities with strong linkages to the rest of the City of Kingston. The City finds that proceeding in this manner constitutes good planning, is consistent with the City's approved LWRP, New York State Coastal Zone policies and the Vision Statement in the City's Waterfront Implementation Plan and furthers the public health, safety and welfare of existing and future residents of the City.

- (4) The TNDOD is intended to provide an option to development under provisions of the existing underlying zoning districts. The standards and procedures set forth for the TNDOD in this Section are intended to over-ride and replace standards and procedures set forth elsewhere in this chapter unless such standards and procedures are specifically referenced or incorporated herein.

B. **Specific Purposes.** The TNDOD is intended to serve the following specific purposes and further the policies of the City's LWRP:

- (1) Encourage innovative, traditional neighborhood development which consists of compact, mixed-use neighborhoods where residential, commercial and civic buildings are within close proximity to each other and incorporates the principals set forth in Section 405-27.F.(6) below.
- (2) Create pedestrian oriented neighborhoods for a diverse population to live, work, learn and play.
- (3) Provide for the reclamation, redevelopment and/or adaptive reuse of former industrial sites. (Policies 1 and 1A)
- (4) Strengthen Kingston's economic base.
- (5) Facilitate and enhance meaningful public access to the City's Hudson River waterfront lands.
- (6) Promote the preservation of large natural features such as woodlands and wetlands and creation of public open spaces within individual neighborhoods.
- (7) Preserve and protect significant views to and from development sites.
- (8) Encourage the incorporation of historic and civic elements into neighborhood design and build upon Kingston's historical and architectural heritage.
- (9) Encourage the provision and/or upgrade of necessary infrastructure resources relating to sewer, water, drainage and parking to facilitate development and improve the natural environment.
- (10) Provision of housing opportunities for moderate income families and individuals including municipal employees, first time home owners and senior citizens.

- C. **Applicability.** This District applies to that portion of the City Kingston waterfront and adjoining upland areas consisting of approximately \_\_\_\_ acres comprising the former Tilcon Mining properties. The precise District boundaries are designated on the City of Kingston Zoning Map.

D. **Permitted Uses.**

Uses Permitted by Right: A building may be erected, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right, subject to the conditions established.

- (1) Residential housing, which may be owner occupied, operated as a rental property, or a combination of owner-occupied and rental, and, if offered for sale, to be owned in fee simple, condominium, cooperative or other forms of ownership, which housing may include any of the following, or any combination thereof.
  - (a) Dwellings: single family, two family and multiple family including Townhouses, studio and residential apartment units.
  - (b) Combination building: A building containing a combination of two or more dwelling unit types, which may include, without limitation, single family attached, townhouses, two story apartments, any of which may be arranged beside, above, or under, other types of unit types.
  - (c) Mixed use building: a building that combines one or more dwelling unit types permitted herein, including, without limitation, single family attached, townhouses and apartments, in combination with non-residential uses, which may include any or all non-residential use types permitted herein.
- (2) Art galleries, workshops or retail shops associated with arts, crafts or fine arts.
- (3) Live-Work facilities (Note: definition needed)
- (4) Restaurants and drinking establishments.
- (5) Health club; indoor recreation facility; outdoor recreation facility.
- (6) Hotels, conference centers, banquet facilities, bed & breakfast establishments (subject to the requirements of §405-45.A.).
- (7) Office, Business Office, Professional Office.
- (8) Personal Service business.
- (9) Theatres, concert halls, cinemas, museums.

- (10) Cultural and educational institutions and facilities and places of religious worship.
- (11) Retail and service uses typically providing goods and services to the immediate neighborhood, including, without limitation, groceries, specialty foods, bakeries, banks, delicatessens, laundromat/drycleaner and personal services.

Special Permit Uses: The following uses are subject to issuance of a special permit by the Planning Board in accordance with the provisions of §405-32 of this chapter:

- (1) Uses listed in §405-25 D of this Chapter as permitted in the RF-R and RF-H Riverfront Districts subject to the requirements specified for such uses.

Accessory Uses: Accessory Uses shall be limited to the following:

- (1) Home occupations subject to the provisions of §405.9.C.(2)
- (2) Professional office or studio subject to the provisions of §405.9.C.(3)
- (3) Off-street parking; fences; hedges; garden walls, signage; gardenhouse, toolhouse, playhouse, greenhouse, pools, incidental to residential use of premises, subject to the approved Regulating Design Manual.

Subdivisions: Portions of the TNDOD site may be subdivided upon approval by the Planning Board, for the purposes set forth below. Any parcels created by such subdivision shall be subject to compliance with all provisions of this section and the approved Regulating Design Manual:

- (1) Subdivision to create individual lots for single family homes, townhouses, multi-family housing, non-residential uses, parks and/or open space.
- (2) Subdivision to create blocks or sections for future development which may be further subdivided in accord with item (1) above.

#### **E. Provisions for Moderate Income Housing**

In any TNDOD, at least 10% of all housing units shall be designated as moderate income housing in accord with the definitions and standards contained herein.

##### **(1) Standards**

- (a) All moderate income housing units shall be physically integrated into the design of the development. Each housing unit shall be constructed to the same quality standards as market-rate units. The exterior finishes shall be indistinguishable from all other units. The developer may, however, substitute different fixtures, appliances and interior finishes where such substitutions would not adversely impact the livability of the unit.

- (b) Moderate income housing units shall generally be distributed throughout the development in the same proportion as other housing units. The Planning Board may use discretion in reviewing and approving distribution of units in consideration of the market objectives of the Applicant.
- (c) To be eligible to purchase or rent a moderate income housing unit, the household's aggregate annual income must be between 80% and 120% of the Ulster County median family income for a family of a particular size as determined annually by the United States Department of Housing and Urban Development (HUD).

## **(2) Housing Plan**

Prior to approval of any application subject to the provisions of this section, the applicant shall submit a proposed Housing Plan to the Planning Board that demonstrates how the following objectives will be achieved:

- (a) Among income-eligible households, preference to purchase or rent moderate income housing units shall be given to the following types of households in an order deemed appropriate by the Planning Board.
  - [1] Employees of the City of Kingston, Town of Ulster or Kingston Consolidated School District.
  - [2] Volunteer members of the Kingston or Ulster Fire Department or First Aid and Rescue Squads.
  - [3] Elderly (62 or older) or disabled residents of the City of Kingston and Town of Ulster.
  - [4] Honorably discharged US veterans who are residents of the City of Kingston or Town of Ulster.
  - [5] All other residents of the City of Kingston or Town of Ulster.
- (b) The Housing Plan shall include procedures and regulations regarding the following:
  - [1] Methods to determine sale and rental prices for moderate income units.
  - [2] Procedures to regulate resale prices of moderate income units.
  - [3] Proposed phasing of moderate income units in relation to phasing of the total development.



- [4] Use of any other procedures deemed appropriate to comply with the intent of this section.

**(3) Approval**

- (a) The Housing Plan shall be approved by the Planning Board, with recommendation from the City Community Development Agency, prior to approval of any site plan, subdivision or special permit for which a Housing Plan is required.
- (b) The Planning Board shall include mention of such Housing Plan in the notice of any required public hearing on the application.
- (c) As part of any approval of the Housing Plan, the Planning Board may require modifications to such Housing Plan to further the intent of this section.

**(4) Administration**

The City of Kingston Community Development Agency shall be responsible for the administration of the moderate income housing program. The administrative agency shall perform the following duties:

- (a) Accept and review applications.
- (b) Maintain eligibility priority list, annually certify and re-certify applicants;
- (c) Establish lottery procedures for selecting applicants that have equal priority;
- (d) Recommend annual maximum income limits; rental prices; resale values;
- (e) Review certification from owner and lessors of rental units certifying that units are occupied by eligible families;
- (f) Review all deed restrictions for moderate income units;
- (g) Review all lease terms for moderate income units, and
- (h) Promulgate rules and regulations as necessary.

**F. Application for a Traditional Neighborhood Development Plan.**

- (1) Any property owner within the TNDOD may apply to the Planning Board for approval of a Traditional Neighborhood Development Plan as an alternative to the uses and development standards permitted in the underlying districts, in accordance with the standards and procedures set forth herein.

- (2) Each Traditional Neighborhood Development Plan must be accompanied by a Regulating Design Manual, subject to approval by the Planning Board, which sets forth the requirements for density, bulk, height, parking, architectural, landscaping, and other design standards to be applied in the proposed traditional neighborhood development.

**G. Criteria For Approval of a Traditional Neighborhood Development Design Plan.**

In determining whether or not to approve a Traditional Neighborhood Development Plan, in accord with the procedures set forth in Paragraph G. below, the Planning Board shall consider the extent to which, the plan meets the following criteria.

- (1) Conforms to the applicable purposes and objectives of the City's Zoning Law.
- (2) Conforms to the applicable policies and purposes of the City's Local Waterfront Revitalization Program and Waterfront Implementation Plan.
- (3) Conforms to the intent and specific purposes of this section.
- (4) Contains a sufficient amount of acreage to allow for the creation of a Traditional Neighborhood Development that incorporates the Traditional Neighborhood Design principles listed below, but in no event less than 25 acres.
- (5) Contains residential and non residential densities that are sufficient to create Traditional Neighborhood Development and neighborhoods while at the same time respecting the natural features and environmental sensitivity of the site, but in no event more than 10 dwelling units per gross acre allocated for residential use or a floor area ratio (FAR) of more than 2.0 for lands allocated for non-residential use.
- (6) Incorporates accepted Traditional Neighborhood Design principles with respect to the roadway system, proposed land uses, the open space system and the scale and style of the building elements. For purposes of this provision, Traditional Neighborhood Design principles shall include:
  - (a) Provision of mixed use neighborhoods that are designed and sized to be walkable.
  - (b) A discernible center within each mixed-use neighborhood to serve as a community gathering place.
  - (c) Shops and stores within close proximity to neighborhoods sufficiently varied to satisfy ordinary household needs.
  - (d) A variety of places to work, including live/work units.

- (e) A mix of dwelling types such that younger and older persons, single person households and families may be housed according to their needs.
- (f) Small playgrounds or neighborhood parks within walking distance of all dwellings.
- (g) Thoroughfares and roadways designed as a network, with emphasis on connecting adjacent thoroughfares wherever possible to provide drivers with options to disperse traffic.
- (h) Traffic calming design to slow traffic, creating an environment appropriate for pedestrians, bicyclists and automobiles.
- (i) Building frontages that create interesting, attractive pedestrian friendly streetscapes and confine parking to locations behind buildings to the maximum extent practicable.
- (j) Preservation of sensitive natural resources and cultural areas as permanent open space.
- (k) Provision for community uses or civic buildings.
- (7) Incorporates meaningful public access to the City's waterfront. Meaningful public access shall be as defined in §405-25 C (2) of this Chapter.
- (8) Demonstrates the provision of adequate services and utilities, including access to public transportation.
- (9) Architectural style of proposed buildings, including exterior finishes, color and scale that is consistent with the intent and purposes of this Section.

#### **H. Traditional Neighborhood Development Plan – Review Procedures.**

- (1) Traditional Neighborhood Development Design Plan Application. An application for approval of a Traditional Neighborhood Development Plan shall be made as follows:
  - (a) Applicant. An application for approval of a Traditional Neighborhood Development Plan shall be made in writing to the Planning Board. Application shall be made by the owner(s) of the land(s) to be included in the project or by a person or persons having an option or contract or other commitment to purchase or acquire the lands. In the event an application is made by a person or persons holding an option or contract to purchase the lands or other commitment to purchase or acquire the lands, such application shall be accompanied by written evidence that the applicant has authorization to submit and pursue such application.

- (b) Applications. All applications for approval of a Traditional Neighborhood Development Plan shall be on forms and in such quantity as may be prescribed by the Planning Board. The application must include a Part 1 Full Environmental Assessment Form.
- (c) Contents. An application for Traditional Neighborhood Development Plan approval shall include the following:
  - [1] A master site development plan for consideration by the Planning Board. The development plan may be prepared at a conceptual level but, at a minimum, must specify the number and type of uses proposed for development and depict their location as well as depict the parking areas to service the proposed uses and the means of traffic circulation, both automotive and pedestrian, between and among the uses.
  - [2] The development plan shall be accompanied by a proposed Regulating Design Manual as required under section E above.
  - [3] The development plan need not encompass all the details required for a site plan approval but shall set forth in reasonable detail the anticipated locations within the development and sizes of all major improvements such that the Planning Board can evaluate the plan for environmental, traffic and other impacts on the City with a view toward attaching any conditions of approval which must be met at the time a detailed site plan is submitted for approval for the development or any portion thereof.
  - [4] The TND Plan shall include a phasing plan with estimated time periods for each phase and for completion of the entire development.
- (2) Processing of Application. The Planning Board shall process an application for approval of a Traditional Neighborhood Development Plan in accordance with the following procedure:
  - (a) Submission. An application for approval of a Traditional Neighborhood Development Plan shall be submitted to the Planning Board office in accord with the timing and procedures established by the Planning Board.
  - (b) Escrow. Upon submission of an application, the Planning Board shall establish an escrow amount to be paid by the applicant to reimburse it for reasonable fees incurred by planning, engineering, legal and other consultants in connection with their review of the application. The escrow shall be periodically replenished as necessary. The applicant shall be provided with an ongoing, detailed accounting of all disbursements from the escrow. Upon termination of the review of the application by the Planning Board, any remaining funds in the escrow account shall be reimbursed to the applicant.

- (c) Concurrent Site Plan Review. Concurrent with its Traditional Neighborhood Development Plan submission, an applicant may also submit a detailed site plan application for one or more phases of the Traditional Neighborhood Development Plan. Any site plan concurrently submitted must comply with the requirements of this section and of §405-30 of this Chapter.
- (d) Public Hearing. The Planning Board shall conduct a public hearing on an application for approval of a Traditional Neighborhood Development Plan, which shall be held at the time and place prescribed by the Planning Board. Notice of any public hearing shall be provided in the same manner as provided for Special Uses set forth in §405-32 B of this Chapter.
- (e) General Municipal Law 239 Referral. If required, the Planning Board shall refer a full statement of the application to the Ulster County Planning Board as provided for by §239-m of the general Municipal Law.
- (f) Decision. The Planning Board shall approve, approve with conditions or deny an application within 62 days after either:
- [1] a SEQRA determination of non-significance, or
  - [2] the issuance of a SEQRA Statement of Findings, or
  - [3] a determination that the proposed action is consistent with a previous Statement of Findings.
- The Planning Board's decision shall contain specific findings demonstrating the application's compliance with the criteria for approval set forth in Section E above. The Planning Board's decision may attach any reasonable conditions to assure conformance with the intent and objectives of these regulations.
- (g) Filing. The decision of the Planning Board shall be filed in the office of the City Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant. In the event of denial, the Planning Board's decision shall contain a written reasoned elaboration in support of the decision.
- (h) Modification. Changes or modification to the approved Traditional Neighborhood Development Plan including but not limited to, modifications to the Regulating Design Manual, shall require review and approval by the Planning Board.
- (i) Time Limits:
- [1] An application for site plan approval of the Traditional Neighborhood Development Plan or, a phase thereof, shall be submitted within one year of the Planning Board's grant of Traditional Neighborhood Development Plan approval. Failure to

submit an application for site plan approval within that period shall render the Traditional Neighborhood Plan approval null and void and of no force and effect.

- [2] Construction work on the Traditional Neighborhood Development must commence within three (3) years from the date of any final site plan approval and all other required permits or approvals by involved agencies. If construction does not commence within said period, then the Traditional Neighborhood Development Plan approval shall become null and void and all rights shall cease.
- [3] Construction of the entire Traditional Neighborhood Development must be completed within the timeframe proposed by the applicant in its TND Plan and approved or modified by the Planning Board at the time of approval. If the Traditional Neighborhood Development is not completed within said time period, then the approval of those phases not substantially completed shall become null and void and all rights therein shall cease.
- [4] Individual approved phases within the Traditional Neighborhood Development shall be undertaken in the timeframe prescribed by the Planning Board in its approval resolution. Each section shall be substantially completed in no more than five (5) years.
- [5] Upon written request by the applicant, any of the time limits prescribed above may be extended by the Planning Board for good cause. Among the examples of good cause are delays occasioned by lawsuits, poor market conditions, unforeseen site conditions and force majeure. The Planning Board shall not withhold such extension unless it finds that the applicant is not proceeding with due diligence or is otherwise violating the conditions upon which the approval was granted. Extensions shall not exceed three years unless the applicant submits a written request for further extension.
- [6] Within the time limits prescribed above, and for any extension period granted by the Planning Board, the Traditional Neighborhood Development plan shall be deemed to have obtained vested rights for purposes of completing the approved development improvements notwithstanding any changes to the Zoning Law.

#### **I. Conflicts.**

To the extent any provision of this Article, including any provision of the approved Regulating Design Manual conflicts with any provision of any other Article in this Chapter, the provisions of this Article shall control.

- (1) The Common Council hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation or provision of the law

inconsistent with this local law. The provisions of law intended to be superseded include all the City Law and any other provision of law that the City may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and apply it in the event the City has failed to specify any provision of law that may require supercession. The Common Council hereby declares that it would have enacted this local law and superseded such inconsistent provision had it been apparent.

**J. Definitions.** As used in this section, the following definitions shall apply:

- (1) The term “construction work” or “construction” shall mean disturbance of the project site and continued activity to install utilities, roads or other infrastructure or the process of erecting any structure in accordance with the final approved site plan.
- (2) The term “final site plan approval” shall mean the signing of the site plan by the Planning Board Chairman with an endorsement by stamp or other writing indicating that the plan has received “final site plan approval” and indicating the date of such final approval.
- (3) A live/work unit.....

## DRAFT ZONING LEGISLATION

### TRADITIONAL NEIGHBORHOOD DEVELOPMENT OVERLAY DISTRICT

BE IT ENACTED by the Town Board of the Town of Ulster as follows:

1. Section 190-6 of Chapter 190 of the Town of Ulster Code entitled "Establishment of Districts" is hereby amended to add the following new zoning district designation:

TNDOD            Traditional Neighborhood Development Overlay District

2. Section 190-7: The Zoning Map of the Town of Ulster is hereby amended to designate the following parcels, \_\_\_\_\_, as "TNDOD – Traditional Neighborhood Development Overlay District".
3. Chapter 190 of the Town of Ulster Code is hereby amended to add the following new section 190-12.1 to Article V Use and Bulk Requirements:

§190-12.1. TNDOD – Traditional Neighborhood Development Overlay District

In the TNDOD, Traditional Neighborhood Development Overlay District, the following regulations will apply.

**A. District Intent and General Purpose.**

- (1) The Traditional Neighborhood Development Overlay District (TNDOD) is hereby established to encourage and facilitate redevelopment and adaptive reuse of the "Tilcon Mining" property which extends from the City of Kingston into the Town of Ulster along the Hudson River waterfront to the hamlet of East Kingston.
- (2) These properties have been analyzed and considered as part of various waterfront planning efforts conducted by the City including, the City's Local Waterfront Revitalization Program (LWRP)(1992) and the City's Waterfront Development Implementation Plan (2000). In response to contemporaneous development proposals, the City has also conducted more focused planning analyses of these properties. This effort has included application of the policies and principles contained in the waterfront planning studies recited above to various specific development scenarios and the conduct of detailed environmental impact assessment of those development scenarios pursuant to the requirements of the New York State Environmental Quality Review (SEQR) Act.
- (3) The result of these planning efforts is the Town and City's joint desire to create the opportunity for Traditional Neighborhood development at these locations that is consistent with the character and history of the City and the hamlet of



East Kingston. Development of traditional neighborhoods along the riverfront will respect its natural resources and provide attractive, diverse, walkable and culturally vibrant communities with strong linkages to the rest of the urban area. The Town finds that proceeding in this manner constitutes good planning and is consistent with the Town's Comprehensive Plan adopted on July 2, 2007, and with the Town's goals and objectives as a Hudson River Greenway community and furthers the public health, safety and welfare of existing and future residents of the Town.

- (4) The TNDOD is intended to provide an option to development under the existing underlying zoning districts. The standards and procedures set forth for the TNDOD in this Section are intended to over-ride and replace standards and procedures set forth elsewhere in this chapter unless such standards and procedures are specifically referenced or incorporated herein.

**B. Specific Purposes.** The TNDOD is intended to serve the following specific purposes:

- (1) Encourage innovative, traditional neighborhood development which consists of compact, mixed-use neighborhoods where residential, commercial and civic buildings are within close proximity to each other and incorporates the principals set forth in Section 190-12.1.F.(6) below.
- (2) Create pedestrian oriented neighborhoods for a diverse population to live, work, learn and play.
- (3) Provide for the reclamation, redevelopment and/or adaptive reuse of former industrial sites.
- (4) Strengthen Kingston's economic base.
- (5) Facilitate and enhance meaningful public access to the Hudson River waterfront lands.
- (6) Promote the preservation of large natural features such as woodlands and wetlands and creation of public open spaces within individual neighborhoods.
- (7) Preserve and protect significant views to and from development sites.
- (8) Encourage the incorporation of historic and civic elements into neighborhood design and build upon the Town's historical and architectural heritage.
- (9) Encourage the provision and/or upgrade of necessary infrastructure resources relating to sewer, water, drainage and parking to facilitate development and improve the natural environment.

- (10) Provision of housing opportunities for moderate income families and individuals including municipal employees, first time home owners and senior citizens.

C. **Applicability.** This District applies to that portion of the Town's waterfront and adjoining upland areas comprising the former Tilcon Mining property. The precise District boundaries are designated on the Town of Ulster Zoning Map.

D. **Permitted Uses**

Uses Permitted by Right: A building may be erected, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right, subject to the conditions established.

- (1) Residential housing, which may be owner occupied, operated as a rental property, or a combination of owner-occupied and rental, and, if offered for sale, to be owned in fee simple, condominium, cooperative or other forms of ownership, which housing may include any of the following, or any combination thereof.
  - (a) Dwellings: single family, two family and multiple family including Townhouses, studio and residential apartment units.
  - (b) Combination building: A building containing a combination of two or more dwelling unit types, which may include, without limitation, single family attached, townhouses, two story apartments, any of which may be arranged beside, above, or under, other types of unit types.
  - (c) Mixed use building: a building that combines one or more dwelling unit types permitted herein, including, without limitation, single family attached, townhouses and apartments, in combination with non-residential uses, which may include any or all non-residential use types permitted herein.
- (2) Art galleries, workshops or retail shops associated with arts, crafts or fine arts.
- (3) Live-Work facilities (Note: definition needed)
- (4) Restaurants and drinking establishments.
- (5) Health club; indoor recreation facility; outdoor recreation facility.
- (6) Hotels, conference centers, banquet facilities, bed & breakfast establishments.
- (7) Office, Business Office, Professional Office.

- (8) Personal Service business.
- (9) Theatres, concert halls, cinemas, museums.
- (10) Cultural and educational institutions and facilities and places of religious worship.
- (11) Retail and service uses typically providing goods and services to the immediate neighborhood, including, without limitation, groceries, specialty foods, bakeries, banks, delicatessens, laundromat/drycleaner and personal services.

Special Permit Uses: The following uses are subject to issuance of a special permit by the Planning Board in accordance with the provisions of §190-25 of this chapter:

- (1) Annual membership clubs such as tennis, marinas or swimming clubs, incorporated pursuant to the provisions of the Not-For-Profit Corporation Law of the State of New York, catering exclusively to members and their guests and private playgrounds, swimming pools, tennis courts and recreation buildings not conducted as business enterprises. Such clubs shall not contain transient or permanent dwelling units.
- (2) Mass transit. Historic and/or alternative modes of transport; structures that facilitate public access; and are set back from the waterfront.
- (3) Flooding and erosion protective structures.
- (4) Structures needed for public educational, recreational activities and boat launches.

Accessory Uses: Accessory Uses shall be limited to the following:

- (1) Home occupations subject to the provisions of §190-14.A.

Subdivisions: Portions of the TNDOD site may be subdivided upon approval by the Planning Board, in accordance with Chapter \_\_\_\_, for the purposes set forth below. Any parcels created by such subdivision shall be subject to compliance with all provisions of this section and the approved Regulating Design Manual:

- (1) Subdivision to create individual lots for single family homes, townhouses, multi-family housing, non-residential uses, parks and/or open space.
- (2) Subdivision to create blocks or sections for future development which may be further subdivided for the purposes set forth in item (1) above.

**E. Provisions for Moderate Income Housing**

In any TNDOD, at least 10% of all housing units shall be designated as moderate income housing in accord with the definitions and standards contained herein.

**(1) Standards**

- (a) All moderate income housing units shall be physically integrated into the design of the development. Each housing unit shall be constructed to the same quality standards as market-rate units. The exterior finishes shall be indistinguishable from all other units. The developer may, however, substitute different fixtures, appliances and interior finishes where such substitutions would not adversely impact the livability of the unit.
- (b) Moderate income housing units shall generally be distributed throughout the development in the same proportion as other housing units. The Planning Board may use discretion in reviewing and approving distribution of units in consideration of the market objectives of the Applicant.
- (c) To be eligible to purchase or rent a moderate income housing unit, the household's aggregate annual income must be between 80% and 120% of the Ulster County median family income for a family of a particular size as determined annually by the United States Department of Housing and Urban Development (HUD).

**(2) Housing Plan**

Prior to approval of any application subject to the provisions of this section, the applicant shall submit a proposed Housing Plan to the Planning Board that demonstrates how the following objectives will be achieved:

- (a) Among income-eligible households, preference to purchase or rent moderate income housing units shall be given to the following types of households in an order deemed appropriate by the Planning Board.
  - [1] Employees of the City of Kingston, Town of Ulster or Kingston Consolidated School District.
  - [2] Volunteer members of the Kingston or Ulster Fire Department or First Aid and Rescue Squads.
  - [3] Elderly (62 or older) or disabled residents of the City of Kingston and Town of Ulster.
  - [4] Honorably discharged US veterans who are residents of the City of Kingston or Town of Ulster.
  - [5] All other residents of the City of Kingston or Town of Ulster.

(b) The Housing Plan shall include procedures and regulations regarding the following:

- [1] Methods to determine sale and rental prices for moderate income units.
- [2] Procedures to regulate resale prices of moderate income units.
- [3] Proposed phasing of moderate income units in relation to phasing of the total development.
- [4] Use of any other procedures deemed appropriate to comply with the intent of this section.

**(3) Approval**

- (a) The Housing Plan shall be approved by the Planning Board, with recommendation from the City Community Development Agency, prior to approval of any site plan, subdivision or special permit for which a Housing Plan is required.
- (b) The Planning Board shall include mention of such Housing Plan in the notice of any required public hearing on the application.
- (c) As part of any approval of the Housing Plan, the Planning Board may require modifications to such Housing Plan to further the intent of this section.

**(4) Administration**

The City of Kingston Community Development Agency shall be responsible for the administration of the moderate income housing program. The administrative agency shall perform the following duties:

- (a) Accept and review applications.
- (b) Maintain eligibility priority list, annually certify and re-certify applicants;
- (c) Establish lottery procedures for selecting applicants that have equal priority;
- (d) Recommend annual maximum income limits; rental prices; resale values;
- (e) Review certification from owner and lessors of rental units certifying that units are occupied by eligible families;
- (f) Review all deed restrictions for moderate income units;
- (g) Review all lease terms for moderate income units, and

- (h) Promulgate rules and regulations as necessary.

**F. Application for Use of the Traditional Neighborhood Development Provisions.**

- (1) Any property owner within the TNDOD may apply to the Town Board for use of the Traditional Neighborhood Development overlay provisions as an alternative to the uses and development standards permitted in the underlying districts, in accordance with the standards and procedures set forth herein. Such application shall be referred to the Town Planning Board for review and recommendations prior to action by the Town Board.
- (2) Each application for use of the Traditional Neighborhood Development provisions be accompanied by a preliminary Regulating Design Manual, subject to approval by the Planning Board, which sets forth the requirements for density, bulk, height, parking, architectural, landscaping, and other design standards to be applied in the proposed traditional neighborhood development.

**G. Criteria For Approval of a Traditional Neighborhood Development Design Plan.**

In determining whether or not to approve use of the Traditional Neighborhood Development provisions, in accord with the procedures set forth in Paragraph G. below, the Town Board shall consider the extent to which, the plan meets the following criteria.

- (1) Conforms to the applicable purposes and objectives of the Towns Zoning Law.
- (2) Conforms to the applicable policies and purposes of the Town's adopted Comprehensive Plan.
- (3) Conforms to the intent and specific purposes of this section.
- (4) Contains a sufficient amount of acreage to allow for the creation of a Traditional Neighborhood Development that incorporates the Traditional Neighborhood Design principles listed below, but in no event less than 25 acres.
- (5) Contains residential and non residential densities that are sufficient to create Traditional Neighborhood Development and neighborhoods while at the same time respecting the natural features and environmental sensitivity of the site, but in no event more than 10 dwelling units per gross acre allocated for residential use or a floor area ratio (FAR) of more than 2.0 for lands allocated for non-residential use.
- (6) Incorporates accepted Traditional Neighborhood Design principles with respect to the roadway system, proposed land uses, the open space system and the scale and style of the building elements. For purposes of this provision, Traditional Neighborhood Design principles shall include:

- (a) Provision of mixed use neighborhoods that are designed and sized to be walkable.
  - (b) A discernible center within each mixed-use neighborhood to serve as a community gathering place.
  - (c) Shops and stores within close proximity to neighborhoods sufficiently varied to satisfy ordinary household needs.
  - (d) A variety of places to work, including live/work units.
  - (e) A mix of dwelling types such that younger and older persons, single person households and families may be housed according to their needs.
  - (f) Small playgrounds or neighborhood parks within walking distance of all dwellings.
  - (g) Thoroughfares and roadways designed as a network, with emphasis on connecting adjacent thoroughfares wherever possible to provide drivers with options to disperse traffic.
  - (h) Traffic calming design to slow traffic, creating an environment appropriate for pedestrians, bicyclists and automobiles.
  - (i) Building frontages that create interesting, attractive pedestrian friendly streetscapes and confine parking to locations behind buildings to the maximum extent practicable.
  - (j) Preservation of sensitive natural resources and cultural areas as permanent open space.
  - (k) Provision for community uses or civic buildings.
- (7) Incorporates meaningful public access to the Town's waterfront.
  - (8) Demonstrates the provision of adequate services and utilities, including access to public transportation.
  - (9) Architectural style of proposed buildings, including exterior finishes, color and scale that is consistent with the intent and purposes of this Section.

#### **H. Traditional Neighborhood Development Plan – Review Procedures.**

- (1) Traditional Neighborhood Development Design Plan Application. An application for approval of a Traditional Neighborhood Development Plan shall be made as follows:

- (a) Applicant. An application for approval of a Traditional Neighborhood Development Plan shall be made in writing to the Planning Board. Application shall be made by the owner(s) of the land(s) to be included in the project or by a person or persons having an option or contract or other commitment to purchase or acquire the lands. In the event an application is made by a person or persons holding an option or contract to purchase the lands or other commitment to purchase or acquire the lands, such application shall be accompanied by written evidence that the applicant has authorization to submit and pursue such application.
- (b) Applications. All applications for approval of a Traditional Neighborhood Development Plan shall be on forms and in such quantity as may be prescribed by the Planning Board. The application must include a Part 1 Full Environmental Assessment Form.
- (c) Contents. An application for Traditional Neighborhood Development Plan approval shall include the following:
  - [1] A master site development plan for consideration by the Planning Board. The development plan may be prepared at a conceptual level but, at a minimum, must specify the number and type of uses proposed for development and depict their location as well as depict the parking areas to service the proposed uses and the means of traffic circulation, both automotive and pedestrian, between and among the uses.
  - [2] The development plan shall be accompanied by a proposed Regulating Design Manual as required under section E above.
  - [3] The development plan need not encompass all the details required for a site plan approval but shall set forth in reasonable detail the anticipated locations within the development and sizes of all major improvements such that the Planning Board can evaluate the plan for environmental, traffic and other impacts on the Town with a view toward attaching any conditions of approval which must be met at the time a detailed site plan is submitted for approval for the development or any portion thereof.
  - [4] The TND Plan shall include a phasing plan with estimated time periods for each phase and for completion of the entire development.
- (2) Processing of Application. An application for approval of a Traditional Neighborhood Development Plan shall be processed by the Planning Board in accordance with the following procedure:
  - (a) Submission. An application for approval of a Traditional Neighborhood Development Plan shall be submitted to the Planning Board in accord with the timing and procedures set forth below.



- (b) Escrow. Upon submission of an application, the Planning Board shall require the applicant to establish an escrow amount to be paid by the applicant to reimburse it for reasonable fees incurred by planning, engineering, legal and other consultants in connection with their review of the application. The escrow shall be periodically replenished as necessary. The applicant shall be provided with an ongoing, detailed accounting of all disbursements from the escrow. Upon termination of the review of the application by the Planning Board, any remaining funds in the escrow account shall be reimbursed to the applicant.
- (c) Concurrent Site Plan Review. Concurrent with its Traditional Neighborhood Development Plan submission, an applicant may also submit a detailed site plan application for one or more phases of the Traditional Neighborhood Development Plan. Any site plan concurrently submitted must comply with the requirements of this section and of §190-145 of this Chapter.
- (d) Public Hearing. The Planning Board shall conduct a public hearing on an application for approval of a Traditional Neighborhood Development Plan, which shall be held at the time and place prescribed by the Board. Notice of any public hearing shall be provided in the same manner as provided for Special Permit Uses set forth in §274-b of the New York State Town Law.
- (e) General Municipal Law 239 Referral. If required, the Planning Board shall refer a full statement of the application to the Ulster County Planning Board as provided for by §239-m of the general Municipal Law.
- (f) Decision. The Planning Board shall approve, approve with conditions or deny an application within 62 days after either:
  - [1] a SEQRA determination of non-significance, or
  - [2] the issuance of a SEQRA Statement of Findings, or
  - [3] a determination that the proposed action is consistent with a previous Statement of Findings.

The Planning Board's decision shall contain specific findings demonstrating the application's compliance with the criteria for approval set forth in Section E above. The Planning Board's decision may attach any reasonable conditions to assure conformance with the intent and objectives of these regulations.

- (g) Filing. The decision of the Planning Board shall be filed in the office of the Town Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant. In the event of denial, the Planning Board's decision shall contain a written reasoned elaboration in support of the decision.

(h) Modification. Changes or modification to the approved Traditional Neighborhood Development Plan including but not limited to, modifications to the Regulating Design Manual, shall require review and approval by the Planning Board.

(i) Time Limits.:

- [1] An application for site plan approval of the Traditional Neighborhood Development Plan or, a section thereof, shall be submitted within one year of the Planning Board's grant of Traditional Neighborhood Development Plan approval. Failure to submit an application for site plan approval within that period shall render the Traditional Neighborhood Plan approval null and void and of no force and effect.
- [2] Construction work on the Traditional Neighborhood Development must commence within three (3) years from the date of any final site plan approval and all other required permits or approvals by involved agencies. If construction does not commence within said period, then the Traditional Neighborhood Development Plan approval shall become null and void and all rights shall cease.
- [3] Individual approved sections of the Traditional Neighborhood Development shall be undertaken in the timeframe prescribed by the Planning Board in its approval resolution. Each section shall be substantially completed in no more than five (5) years.
- [4] Construction of a Traditional Neighborhood Development Plan must be completed within the timeframe proposed by the applicant in its TND Plan and approved or modified by the Planning Board at the time of approval. If the Traditional Neighborhood Development is not completed within said time period, then the approval shall become null and void and all rights therein shall cease.
- [5] For purposes of the above provisions the term "construction work" or "construction" shall mean disturbance of the project site and continued activity to install utilities, roads or other infrastructure or the process of erecting any structure in accordance with the final approved site plan. The term "final site plan approval" shall mean the signing of the site plan by the Planning Board Chairman with an endorsement by stamp or other writing indicating that the plan has received "final site plan approval" and indicating the date of such final approval.
- [6] Upon written request by the applicant, any of the time limits prescribed above may be extended by the Planning Board for good cause. Among the examples of good cause are delays occasioned by lawsuits, poor market conditions, unforeseen site conditions and

force majeure. The Planning Board shall not withhold such extension unless it finds that the applicant is not proceeding with due diligence or is otherwise violating the conditions upon which the approval was granted. Extensions shall not exceed three years unless the applicant submits a written request for further extension.

- [7] Within the time limits prescribed above, and for any extension period granted by the Planning Board, the Traditional Neighborhood Development plan shall be deemed to have obtained vested rights for purposes of completing the approved development improvements notwithstanding any changes to the Zoning Law.

I. **Conflicts.** To the extent any provision of this Article, including any provision of the approved Regulating Design Manual conflicts with any provision of any other Article in this Chapter, the provisions of this Article shall control.

- (1) The Town Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation or provision of the law inconsistent with this local law. The provisions of law intended to be superseded include all the Town Law and any other provision of law that the Town may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supercession. The Town Board hereby declares that it would have enacted this local law and superseded such inconsistent provision had it been apparent.

## **EXHIBIT B**

# **HUDSON LANDING REGULATING DESIGN MANUAL**

## **Table of Contents**

### **Section I - Introduction**

Hudson Landing - The Vision  
Illustrative Plan  
Development Program  
Design Character  
Building Environment  
Pedestrian Environment  
Sustainable Development

### **Section II - Planning Guidelines**

#### **Urban Guidelines**

Permitted Use Regulating Plan  
Permitted Height Regulating Plan  
Open Space Regulating Plan

#### **Lot Guidelines**

Mixed Use Buildings  
Live/Work Townhouses  
Multi-Family Buildings  
Village Townhouses  
Carriage Townhouses - Uphill Sloping  
Carriage Townhouses - Downhill Sloping  
Stacked Townhouses  
Duplexes - Rear Loaded  
Duplexes - Front Loaded  
Single Family Detached - Rear Loaded  
Single Family Detached - Front Loaded

#### **Roadway Guidelines**

Roadway Designation Plan  
Roadway Details

### **Open Space Guidelines**

South Cove Park at Terry Landing  
Core Preservation and Biodiversity  
Habitat Area  
Staples Wharf Waterfront Park  
North Cove Park at Shultz Landing  
Upland Hiking Trails and Scenic  
Overlooks  
Canyon Recreation Area  
Promenade Details. Details A, B, C,  
D and E.

### **Signage Guidelines**

### **Awning Guidelines**

### **Storefront Lighting Guidelines**

### **Section III - Architectural Guidelines**

#### **Architectural Styles**

Hudson River Dutch  
Georgian and Federal  
Greek Revival  
Italianate  
Second Empire  
Classical Revival  
Hudson River Gothic  
English Country  
Shingle Style  
Main Street

## **Building Types**

Mixed use Residential/Retail/Office

Live/Work Townhouses

Multi-Family

Village Townhouses

Carriage Townhouses - Uphill Sloping

Carriage Townhouses - Downhill Sloping

Stacked Townhouses

Duplexes - Rear Loaded

Duplexes - Front Loaded

Single Family Detached - Rear Loaded

Single Family Detached - Front Loaded

Community Buildings

## **Design Guidelines**

Objectives

General Building Design

Walls, Foundations, Trim

Porches, Stoops, Decks, Chimneys

Roofs, Gutters, Downspouts

Windows

Shutters, Awnings, Doors, Garage Doors

Fences, Hedges, Walls, Walks, Driveways

Miscellaneous

## **Section IV - Landscape Guidelines**

### **General Principles**

### **Planting Requirements - Lot Guidelines**

Mixed use Buildings

Live/Work Townhouses

Multi-Family Buildings

Village Townhouses

Carriage Townhouses - Uphill Sloping

Carriage Townhouses - Downhill Sloping

Stacked Townhouses

Duplexes - Rear Loaded

Duplexes - Front Loaded

Single Family Detached - Rear Loaded

Single Family Detached - Front Loaded

Community Buildings

## **Plant Selection List**

## **Section V - Administration and Implementation**

### **Design Review Procedure - Table of Contents**

**PART I: Purpose, Powers and Duties**

**PART II: Design Review - General Information**

**PART III: Design Review Process**

## **EXHIBIT C**

### **RECOMMEDATION OF CONSISTENCY**

RECEIVED BY CITY CLERK *Arline R. Deputy*  
DATE 2-5-09  
TIME 9:36 AM

# RECOMMENDATION OF CONSISTENCY

FOR

## HUDSON LANDING DEVELOPMENT

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As provided under Local Law No. 4 of 1992,  
The City of Kingston Waterfront Consistency Review Law

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Prepared By:  
The City of Kingston Heritage Area Commission

February 4, 2009

## TABLE OF CONTENTS

	<u>PAGE</u>
I. PROCEDURAL REQUIREMENTS.....	1
II. PROPOSED ACTION.....	1
III. REQUIRED APPROVALS.....	2
IV. DOCUMENTS SUBMITTED.....	2
V. EVALUATION OF CONSISTENCY.....	2
VI. FINDINGS AND RECOMMENDATIONS.....	27



## **I PROCEDURAL REQUIREMENTS**

The City of Kingston Waterfront Consistency Review Law (Local Law No. 4 of 1992) requires that, prior to approval of certain actions in the City of Kingston Coastal Area, an agency shall refer the proposed action to the Waterfront Advisory Committee (Heritage Area Commission "HAC") for a determination as to whether the action is consistent with the policy standards and conditions set forth in the City of Kingston Local Waterfront Revitalization Program (LWRP).

Pursuant to said Local Law, the following documents were submitted to the HAC under cover dated January 13, 2009, for review and consideration:

- Kingston Heritage Area Commission – Application for Submission
- Coastal Assessment Form
- CD containing the Hudson Landing Regulating Design Manual (pdf) as well as a copy of memorandum to the Heritage Area Commission dated 12/9/08 (pdf)

It should be noted that a portion of this proposed project is located in the Town of Ulster which does not have an LWRP and where alternative procedures regarding consistency with the NYS Coastal Management Program will be followed.

## **II PROPOSED ACTION**

The proposed Hudson Landing Development consists of a mixed use development of 1,682 housing units of various types and 78,500 square feet of commercial space on a 508 acre site which extends into the Town of Ulster and includes almost one mile of frontage on the Hudson River.

The Hudson Landing project has been developed as a compact, mixed use, Traditional Neighborhood which incorporates accepted policies for "Smart Growth." These concepts have been promoted as an alternative to urban sprawl and to preserve open space and vegetation, where appropriate. Large areas of the project site will be set aside for preservation, including the Delaware Forest located along the ridge line. A 1,000-foot wide natural corridor will be established along the shoreline of the Hudson River connecting to the interior open space. In all, approximately 350 acres of the 508-acre site will be set aside for open space. The proposed community will be integrated into existing surrounding neighborhoods by way of connections with existing roadways, pedestrian, and public transit links. The project site is located within existing and planned sewer and water districts with ample capacity to support the full build out of the development.

The Traditional Neighborhood Plan has been developed to respect the land use and development policies of the LWRP adopted by the City. The Plan goes beyond the policies of the LWRP with the dedication of public lands and increased setbacks from the Hudson River.

The project has been designed to promote the public's enjoyment of the resources available on the Hudson Landing site. A public waterfront promenade and connecting parklands complete with paddle sport boat launch areas will be established within both the North and South

Cove Neighborhoods. In addition, ample public parking; picnic areas; paths and trails for walking, biking and hiking; and provisions for nature viewing will be provided.

Public facilities such as an Environmental Education Center in the City's limits, and a Community Center and Historic Museum within the existing Mule Barn in the Town of Ulster, will be developed. These facilities are proposed to promote local programs, community involvement, and educational initiatives for the City and Town.

The final Traditional Neighborhood Plan was prepared in response to extensive public comment and recommendations from City staff and consultants and represents the City's vision for their waterfront.

### **III. REQUIRED APPROVALS**

The specific actions and approvals which will be required from City agencies include the following:

#### **A. City of Kingston Common Council**

Amendment of the City of Kingston Zoning Law to establish and map the Traditional Neighborhood Development Overlay District (TNDOD).

#### **B. City of Kingston Planning Board**

1. Approval of a Design Regulating Manual for the total site.
2. Approval of subdivision plans for major sections of the site and individual sub-units.
3. Approval of site plans for individual buildings and groups of buildings.
4. Approval of special use permits for specified uses

### **IV. DOCUMENTS SUBMITTED**

Many documents have been submitted to the City of Kingston Planning Board (the lead agency for review under the State Environmental Quality Review Act) during the environmental review of the development proposal. The most comprehensive document is the Final Generic Environmental Impact Statement (FGEIS), which includes the most current plan for the project as well as supporting information (particularly the Design Regulating Manual) and was approved by the Planning Board on December 18, 2008. The Heritage Area Commission primarily considered this document in the preparation of its Recommendation of Consistency as well as the presentation by the applicant on December 10, 2008.

## V. EVALUATION OF CONSISTENCY

As required under Section V.7 of the Waterfront Consistency Review law, the Heritage Area Commission has evaluated the proposed Hudson Landing development for consistency with each of the policies of the Local Waterfront Revitalization Program as set forth below. It should be noted that not all of the policies in the LWRP are applicable to the Hudson Landing Development. Therefore, the following evaluation deals only with those policies which are relevant to Hudson Landing.

### DEVELOPMENT POLICIES

#### **POLICY 1 RESTORE, REVITALIZE, AND REDEVELOP DETERIORATED AND UNDERUTILIZED WATERFRONT AREAS FOR COMMERCIAL, INDUSTRIAL, CULTURAL, RECREATIONAL, AND OTHER COMPATIBLE USES.**

The Hudson Landing site is a highly deteriorated and disturbed waterfront site. Hundreds of years of mining for aggregate and clay, occupation by many historical brickworks, and most recently, the abandonment of the site by Hudson Cement works in the latter part of the 20<sup>th</sup> century have left tremendous quarry pits, rock escarpments, highly disturbed landscapes, material stockpiles, and abandoned buildings and structures throughout. The site encompasses approximately one mile of Hudson River waterfront but currently provides no benefit to the City, Town, or general public. Restoration, revitalization, and redevelopment of this post-industrial waterfront under the proposed Traditional Neighborhood Plan will bring over 350 acres of open space to the Hudson River, including approximately 1 mile of public waterfront promenade with picnic areas and canoe/kayak launch areas, upland hiking trails and scenic overlooks, a new state-of-the-art environmental education center in the City of Kingston, and a historical museum and community center in the restored historic "Mule Barn" in the Town of Ulster. In addition, the project will bring a traditional model of planning to the waterfront area with a variety of housing options; neighborhood commercial uses; and civic, cultural, and recreational uses all within a walkable traditional network of streets and community open space elements.

#### **POLICY 1A REDEVELOP THE FORMERLY INDUSTRIALIZED AND MINED AREAS OF THE HUDSON RIVER WATERFRONT TO INCLUDE WATER-DEPENDENT AND WATER-ENHANCED RECREATIONAL USES AND OTHER COMPATIBLE USES THAT WILL INCREASE PUBLIC ACCESS TO, AND PUBLIC ENJOYMENT OF, THIS AREA.**

The Traditional Neighborhood Plan commits 100 percent of the project's river frontage for public park. This waterfront parkland includes a public promenade extending nearly one mile along the waterfront. This promenade provides the opportunity to walk, jog, and bicycle along a currently-inaccessible portion of Kingston's Hudson River waterfront. Public parking is

provided along the promenade at the South Cove Neighborhood, the central core preservation area, the waterfront restaurant pavilion, and the North Cove Park in the Town of Ulster. Provisions have been reserved within this waterfront area for continuation of the Kingston Trolley as well as the potential for ferry service to and from the property. This waterfront area can be used for boating, fishing, or passive and active recreation.

**POLICY 1C RESTORE AND REVITALIZE THE PREDOMINANTLY RESIDENTIAL CHARACTER OF THE HISTORIC WILBUR AND PONCKHOCKIE NEIGHBORHOODS.**

The historic Wilbur and Ponckhockie neighborhoods represent fringe neighborhoods of the Rondout district. The LWRP characterizes the neighborhoods as "housing which is modest and of lower density," the main focus of commercial activity for these areas being the Rondout.

The Hudson Landing respects this historical character by promoting a comparable density to the Rondout and a similar outward expanding pattern of growth which transects into these existing neighborhoods to preserve their integrity and historical context. In addition, the Hudson Landing Regulating Design Manual, which has been prepared to guide development of the project, incorporates most, if not all, of the same architectural styles present in these older neighborhoods.

The major commuter traffic planned for the Hudson Landing will be directed away from these neighborhoods by a new direct connection to Route 32, thus minimizing impacts to adjacent area roadways.

It is also anticipated that new waterfront development adjacent to these areas will spark renewed interest in the historic areas, which in turn will spur a renaissance in restoration and revitalization from the private sector.

**POLICY 1D RESTORE AND REVITALIZE THE MIXED RESIDENTIAL AND SMALL-SCALE COMMERCIAL CHARACTER OF THE HISTORIC RONDOUT NEIGHBORHOOD.**

As with the historic Wilbur and Ponckhockie neighborhoods, it is also anticipated that the Hudson Landing, with the influx of new residents and over 150 million dollars a year in annual discretionary spending, will spark renewed interest in these historic areas and spur a renaissance in restoration and revitalization and increased commercial activity to help existing downtown businesses.

**POLICY 2 FACILITATE THE SITING OF WATER-DEPENDENT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.**

See Policies 1A and 21.

**POLICY 2A DEVELOP NEW WATER-DEPENDENT USES ALONG THE RONDOUT CREEK AND HUDSON RIVER WATERFRONTS.**

See Policies 1A and 21.

**POLICY 4 STRENGTHEN THE ECONOMIC BASE OF SMALLER HARBOR AREAS BY ENCOURAGING THE DEVELOPMENT AND ENHANCEMENT OF THOSE TRADITIONAL USES AND ACTIVITIES WHICH HAVE PROVIDED SUCH AREAS WITH THEIR UNIQUE MARITIME IDENTITY.**

"This policy recognizes that the traditional activities occurring in and around numerous smaller harbors throughout the State's coastal area contribute much to the economic strength and attractiveness of these harbor communities. Thus, efforts of State agencies shall center on promoting such desirable activities as recreational and commercial fishing, ferry services, marinas, historic preservation, cultural pursuits, and other compatible activities which have made smaller harbor areas appealing as tourist destinations and as commercial and residential areas. Particular consideration will be given to the visual appeal and social benefits of smaller harbors which, in turn, can make significant contributions to the State's tourism industry" (NYS Department of State; State Coastal Policies; April 2002).

Redevelopment of this former industrial property will make the best use of available resources to develop the Hudson Landing as outlined in the City of Kingston's LWRP by adhering to the vision of the City for its waterfront. The Traditional Neighborhood Plan preserves the historical integrity of the waterfront area through traditional planning while providing a tremendous economic stimulus for the City of Kingston and Town of Ulster through taxation, job creation, and new resident expenditures. These new resident expenditures will enhance the traditional uses and activities in areas such as the Rondout, which provides the area with its unique maritime identity.

The "Net"<sup>1</sup> annual fiscal benefits for the affected jurisdictions of the project are shown below:<sup>2</sup>

Town of Ulster	\$653,677
City of Kingston	\$3,180,164
Ulster County	\$1,470,772
Kingston City Schools	\$5,760,734
East Kingston Fire	\$172,261
Kingston Library	\$30,340
Total for All Jurisdictions	\$10,693,445

Other economic impacts of the project include the following:

Temporary Construction Jobs .....2,174

<sup>1</sup> "Net" refers to the resultant fiscal benefit to the jurisdiction after all associated costs have been accounted for.

<sup>2</sup> Source "Revised Fiscal and Economic Impact Assessment Addendum for Hudson Landing, Stuart Turner & Associates, March 20, 2007

Full-Time Retail Jobs.....	196.25
Total Expenditures by Construction Workers.....	\$82,409,075
Total Income Tax from Construction Employment.....	\$3,963,981
Total Sales Tax Generated from Construction Worker Expenditures.....	\$2,344,797
Annual Sales Tax from Future Residents.....	\$4,923,697
Revenue to Local and Regional Building Supply Companies.....	\$114,136,875
Projection of Future Resident Expenditures.....	\$150,116,807

**POLICY 5 ENCOURAGE THE LOCATION AND DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES AND FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE.**

“By its construction, taxing, funding, and regulatory powers, government has become a dominant force in shaping the course of development. Through these government actions, development, particularly large-scale development, in the coastal area will be encouraged to locate within, contiguous to, or in close proximity to existing areas of concentrated development where infrastructure and public services are adequate, where topography, geology, and other environmental conditions are suitable for and able to accommodate development.

The above policy is intended to accomplish the following:

- ♦ Strengthen existing residential, industrial and commercial centers
- ♦ Foster an orderly pattern of growth where outward expansion is occurring
- ♦ Increase the productivity of existing public services and moderate the need to provide new public services in outlying areas
- ♦ Preserve open space in sufficient amounts and, where desirable, foster energy conservation by encouraging proximity between home, work and leisure activities” (NYS Department of State; State Coastal Policies; April 2002).

The City of Kingston is an area of concentrated development, where infrastructure and public services are generally adequate to support future land uses and development. However, certain deficiencies in terms of condition and type of infrastructure remain at various waterfront locations.<sup>3</sup>

The site is located directly within the highest concentration of urban development within Ulster County (as represented by the Ulster County Department of Planning) and has direct access to major highways, bus routes, and rail within a five-minute drive. All required facilities, such as water, sewer, gas and electric, etc., are located within or adjacent to the site. All community services, such as police, fire, ambulance, school bus, and postal service, already exist around the perimeter of the site; development of the site will achieve better and more-effective service for this area by providing access through the site, thus promoting better response times and traffic circulation. It has been demonstrated through the SEQRA process that adequate services will be provided to serve the project, providing a net fiscal benefit to all the taxing

<sup>3</sup> City of Kingston Local Waterfront Revitalization Program, adopted July 7, 1992

jurisdictions affected by the project. All community service providers have reviewed the proposal and have concurred that the project will provide a fiscal benefit to the City and Town.

Finally, the Hudson Landing community, which has been demonstrated in previous sections to promote the best use of the property under the guidelines of smart growth, will promote energy conservation by infusing this area with an appropriate level of development that will support alternate means of transportation, such as bus service, as well as promote an active community life and neighborhood businesses.

## FISH AND WILDLIFE POLICIES

**POLICY 7 SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS, AS IDENTIFIED ON THE COASTAL AREA MAP, SHALL BE PROTECTED, PRESERVED, AND WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN THEIR VIABILITY AS HABITATS.**

The Traditional Neighborhood Plan has been revised to eliminate the proposed marina within the South Cove Neighborhood because of the substantial Submerged Aquatic Vegetation (SAV) in that location. As such, this very critical fish breeding area will be preserved.

**POLICY 8 PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH ACCUMULATE IN THE FOOD CHAIN OR WHICH CAUSE SIGNIFICANT SUBLETHAL OR LETHAL EFFECTS ON THOSE RESOURCES.**

The reclamation of this post industrial site will re-vegetate and stabilize currently exposed areas and reduce sediment transport to the Hudson River coastal resources. In addition, new storm water Best Management Practices will be implemented for new development which will achieve current Phase 2 storm water regulations which will insure protection of these resources from hazardous wastes and other pollutants.

**POLICY 9 EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY INCREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCKS, AND DEVELOPING NEW RESOURCES. SUCH EFFORTS SHALL BE MADE IN A MANNER WHICH ENSURES THE PROTECTION OF RENEWABLE FISH AND WILDLIFE RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.**

The redevelopment of this former industrial property will have a beneficial effect on the expansion of recreational use of fish and wildlife resources. As stated previously, the entire waterfront area (i.e., approximately 1 mile) will be set aside for public park land, considerably expanding these opportunities within the City of Kingston as well as the Town of Ulster.

## PUBLIC ACCESS POLICIES

**POLICY 19** PROTECT, MAINTAIN, AND INCREASE THE LEVELS AND TYPES OF ACCESS TO PUBLIC WATER-RELATED RECREATION RESOURCES AND FACILITIES SO THAT THESE RESOURCES AND FACILITIES MAY BE FULLY UTILIZED BY ALL THE PUBLIC IN ACCORDANCE WITH REASONABLY ANTICIPATED PUBLIC RECREATION NEEDS AND THE PROTECTION OF HISTORIC AND NATURAL RESOURCES. IN PROVIDING SUCH ACCESS, PRIORITY SHALL BE GIVEN TO PUBLIC BEACHES, BOATING FACILITIES, FISHING AREAS, AND WATERFRONT PARKS.

The redevelopment of this former industrial property will have a significant beneficial effect. As stated above, the entire waterfront area will be dedicated to public park which will open up multiple areas for non-motorized boat access and fishing while preserving and protecting natural resources. In addition, the preservation of the Historic Smoke Stack and restoration of the Historic Mule Barn for a museum and community center will provide considerable public benefit in the protection and preservation of historic resources on the waterfront area. (See Policy 9 above)

**POLICY 20** ACCESS TO THE PUBLICLY-OWNED FORESHORE AND TO LANDS IMMEDIATELY ADJACENT TO THE FORESHORE OR THE WATER'S EDGE THAT ARE PUBLICLY-OWNED SHALL BE PROVIDED, AND IT SHOULD BE PROVIDED IN SUCH A MANNER COMPATIBLE WITH ADJOINING USES. SUCH LANDS SHALL BE RETAINED IN PUBLIC OWNERSHIP.

(See Policies 9 and 19 above.)

## RECREATION POLICIES

**POLICY 21** WATER DEPENDENT AND WATER ENHANCED RECREATION SHALL BE ENCOURAGED AND FACILITATED AND SHALL BE GIVEN PRIORITY OVER NON-WATER-RELATED USES ALONG THE COAST PROVIDED IT IS CONSISTENT WITH THE PRESERVATION AND ENHANCEMENT OF OTHER COASTAL RESOURCES AND TAKES INTO ACCOUNT DEMAND FOR SUCH FACILITIES. IN FACILITATING SUCH ACTIVITIES, PRIORITY SHALL BE GIVEN TO AREAS WHERE ACCESS TO THE RECREATION OPPORTUNITIES OF THE COAST CAN BE PROVIDED BY NEW OR EXISTING PUBLIC TRANSPORTATION SERVICES AND TO THOSE AREAS WHERE THE USE OF THE SHORE IS SEVERELY RESTRICTED BY EXISTING DEVELOPMENT.



Redevelopment of this former industrial property will significantly encourage and enhance water-related uses appropriate for this portion of the Hudson River, including boating and fishing as well as pedestrian and bicycle trails, picnic areas, scenic overlooks, and passive recreation areas that take advantage of the coastal scenery. (See Policy 19 above.)

**POLICY 21A DEVELOP, EXPAND, AND IMPROVE EXISTING PUBLIC WATER-DEPENDENT AND WATER-ENHANCED RECREATION FACILITIES ALONG THE HUDSON RIVER AND RONDOUT CREEK WATERFRONTS.**

See response above

**POLICY 21B ENCOURAGE THE DEVELOPMENT, EXPANSION, AND IMPROVEMENT OF PRIVATE WATER-DEPENDENT AND WATER-ENHANCED RECREATION FACILITIES ALONG THE HUDSON RIVER AND RONDOUT CREEK WATERFRONTS.**

The entire waterfront area for Hudson Landing is proposed to be public open space and as such all uses shall be public. No private uses are proposed under the plan.

**POLICY 22 DEVELOPMENT, WHEN LOCATED ADJACENT TO THE SHORE, SHALL PROVIDE FOR WATER-RELATED RECREATION AS A MULTIPLE USE WHENEVER SUCH RECREATIONAL USE IS APPROPRIATE IN LIGHT OF REASONABLY ANTICIPATED DEMAND FOR SUCH ACTIVITIES AND THE PRIMARY PURPOSE OF THE DEVELOPMENT.**

Redevelopment of this former industrial property will have a beneficial effect. The proposed waterfront park will provide for multiple uses such as boating, fishing, walking, jogging, nature viewing, etc. These uses will be complimented with cultural and historical interpretive displays which will target the rich historical heritage of the property as well as the Hudson Valley Region.

## HISTORIC AND SCENIC POLICIES

**POLICY 23 PROTECT, ENHANCE, AND RESTORE STRUCTURES, DISTRICTS, AREAS OR SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHAEOLOGY, OR CULTURE OF THE STATE, ITS COMMUNITIES, OR THE NATION.**

The project includes rehabilitation and adaptive reuse of two structures determined to be eligible for the National or State Registers of Historic Places. Consistent with the intent of

Coastal Policy 23, the abandoned and dilapidated "mule barn" building and the existing brick chimney located in the northern portion of the site will be restored and rehabilitated.

## SCENIC QUALITY POLICIES

### **POLICY 24 PREVENT IMPAIRMENT OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE.**

The project view shed includes scenic resources of statewide significance. These include the Estates District Scenic Area of Statewide Significance, the Hudson River National Historic Landmark District, the Mid-Hudson Shorelands Scenic District, the Sixteen Mile National Register Historic District, and the Hudson River itself. For the purpose of clarity, consideration of the project impact on the Estates District Scenic Area of Statewide Significance is addressed separately from the evaluation of other Hudson River and shoreline resources.

#### 1. Impact on Hudson River and Shoreline Resources

Regulatory guidance concerning the evaluation, mitigation, and determination of the significance of aesthetic impact on such visual resources of statewide significance is provided in the NYS Department of Environmental Conservation (NYSDEC) Program Policy on Assessing and Mitigating Visual Impacts (DEP-00-2; July 31, 2000) (hereafter referred to as the DEC Visual Policy). The DEC Visual Policy does not establish specific impact thresholds or mitigation requirements, but is a guidance document to assist regulators in the review of project applications under the State Environmental Quality Review Act (SEQRA). Therefore, the recommendations outlined in the DEC Visual Policy are subject to interpretation by the Lead Agency for the project.

The DEC Visual Policy states,

"Aesthetic impact occurs when there is a detrimental effect on the perceived beauty of a place or structure. Significant aesthetic impacts are those that may cause a diminishment of the *public enjoyment and appreciation of an inventoried resource*, or one that impairs the character or quality of such a place. Proposed large facilities by themselves should not be a trigger for a declaration of significance. Instead, a project by virtue of its siting in visual proximity to an inventoried resource may lead staff to conclude that there may be a significant impact" (DEC Visual Policy, p. 5) (emphasis added).

Under its definition of aesthetic impact, the DEC Visual Policy further states:

"Mere visibility, even startling visibility of a project proposal, should not be a threshold for decision making. Instead, a project, by virtue of its visibility, must clearly interfere with or reduce the *public's enjoyment and/or appreciation of the appearance of an inventoried resource* (e.g., cooling tower

plume blocks a view from a State Park overlook)" (DEC Visual Policy, p. 9) (emphasis added).

The DEC Visual Policy clearly distinguishes between visual resources which are open to the public and private properties. While the scenic quality of views from private estates within these scenic districts is unquestioned, the DEC Visual Policy is focused on minimizing aesthetic impact on views that are available to the general public. The closest publicly-accessible vistas in the direction of the project site from these culturally-important districts are found at the Rhinecliff Waterfront Park and Boat Launch, approximately 1½ miles southeast of the project site; Poets Walk Park, approximately 3 miles northeast of the project site; and from the Amtrak passenger railroad on the east shore of the River. The project will also be directly visible from on-water vantage points on the Hudson River. There is no public access to the waterfront between the Kingston-Rhinecliff Bridge and the hamlet of Rhinecliff, and no vista of the project site from any public road within this portion of the shoreland area.

Neither the DEC Visual Policy nor SEQRA establish thresholds for an unacceptable degree of visual impact. Rather, they simply require that potential visual impact on inventoried resources be identified and mitigated to the maximum extent practicable. If, after mitigation, the project clearly interferes with, or reduces, the public's enjoyment of an inventoried resource, then a significant adverse visual impact can be claimed.

As required by the DEC Visual Policy, the Visual Resources Assessment (VRA) prepared by Saratoga Associates (December 2004) included an inventory of aesthetically-sensitive resources within the project viewshed and a thorough evaluation of visual impact. Based on the results of this analysis and public comment, the project has been substantially redesigned to reduce the number of structures along the shoreline, increase shoreline setback for enhanced visual screening, increase visible open space, avoid visible development on ridgelines, and cluster structures to provide visual organization.

While the revised project remains directly visible from public places within the Hudson River National Historic Landmark District, the Mid-Hudson Shorelands Scenic District, and the Sixteen Mile National Register Historic District, the project as planned would not reduce a visitor's enjoyment of the public views, including the Rhinecliff Waterfront Park or Poets Walk Park.

## 2. Impact on the Estates District Scenic Area of Statewide Significance

### a. Background/Description and Aesthetic Significance

The Estates District Scenic Area of Statewide Significance extends approximately 27 miles along the eastern shoreland of the Hudson River, from Cheviot Landing in the Town of Germantown to the Franklin Delano Roosevelt Home National Historic Site in Hyde Park. While the proposed Hudson Landing project is not located within the Estates District SASS, the western boundary of the SASS is the mean high water line on the west bank of the Hudson River bordering the project site.

According to the document, "Scenic Areas of Statewide Significance" (NYS Department of State, Division of Coastal Resources and Waterfront Revitalization; July 1993) (hereafter referred to as the SASS document), the Estates District SASS constitutes a landscape of national and international significance which evolved through the development of a rich cultural heritage and outstanding natural setting. The Estates District is comprised of over 20 major and numerous minor historic estates and the Hudson River, toward which they are oriented. "The beauty of the region's landscape, including views of the Hudson River and the distant Catskill Mountains, has been celebrated for generations, most notably in the paintings of the Hudson River School of Art" (NYSDOS, 1993, p. 139). In describing the aesthetic significance of the Estates District SASS, the SASS document states:

"The Estates District SASS is of statewide aesthetic significance by virtue of the combined aesthetic values of its landscape character and its uniqueness, *public accessibility*, and public recognition.

There exists in the SASS a variety, as well as a unity, of major landscape components. The collection of large estates with their designed landscapes, the many undisturbed natural features, and the significant *public* historic sites and architectural treasures render this SASS unique in the Hudson River coastal area, the State, and nation. The Hudson River and its influence on the historical development of the area constitute the major unifying features. The SASS is *generally free of discordant features*, evidence of the strong conservation ethic operating here."

Although private estates cover most of the eastern shore of the Hudson River, the Estates District SASS is *publicly accessible* to a great extent, both visually and physically, from the Hudson River, from public streets and highways, and from significant national and State parks and sanctuaries.

Because of the attraction these facilities create, and because the SASS has been the subject of treatises and art works, surveys, and designations at both the State and national level, the Estates District Scenic Area is well recognized by the public for its aesthetic value" (NYSDOS, 1993, p. 141) (emphasis added).

The Estates District SASS is comprised of 29 subunits. Three of these subunits include shoreland areas opposite the project site. The views and reason for inclusion in the Estates District SASS of each of these subunits are described below.

#### Astor Cove Subunit (ED-10)

The Astor Cove Subunit (ED-10), directly opposite the project site, extends from approximately ¼ mile north of the Kingston-Rhinecliff Bridge to approximately ½ mile north of the hamlet of Rhinecliff. The subunit boundary includes the Hudson River and its eastern shore to the top the riverfront bluffs. Views from the Astor Cove Subunit are "sweeping 180 degree panoramas *from the grounds of major estates*, and many include the Kingston-Rhinecliff Bridge.

Many are framed by the designed landscapes surrounding the mansions. In other areas of this subunit, the dense forest cover limits these views" (NYSDOS, 1993, p. 192) (emphasis added).

In describing the proposed Hudson Landing site, the SASS document notes, "the most significant discordant features are the industrial and mining sites visible in Ulster and Kingston, just outside the western boundary of the SASS (NYSDOS, 1993, p. 192).

"This subunit consists primarily of *private property which is not physically accessible to the public*. The subunit is *visible from the Hudson River* and its western shorelands and from the Kingston-Rhinecliff Bridge" (NYSDOS, 1993, p. 193) (emphasis added).

The Astor Cove Subunit is included in the Estates District SASS "because it contains a variety of landscape and architectural components, including mature woodlands, unique specimen trees, and estate plantings associated with notable early 20th century mansions. Contrasts exist between the buildings and the natural elements of the surrounding grounds and woods, while the design of the estate grounds and their structures offers a strong unity among these elements" (NYSDOS, 1993, p. 193).

Moreover, according to the SASS narrative, when referring to views from private estates, "The *industrial sites* on the western shore across from the southern portion of the subunit are somewhat *discordant and reduce the scenic quality* of the views (NYSDOS, 1993, p. 192) (emphasis added).

#### Rhinecliff Road Subunit (ED-14)

The Rhinecliff Road Subunit extends along Rhinecliff Road and connects the Village of Rhinebeck and the hamlet of Rhinecliff. The western edge of the subunit includes the Hudson River. "Views in this subunit are generally narrow or linear along the axis of the roadway or through clearings into adjacent subunits and framed by trees and fields. Broad views of the Hudson River are available, however, from the western end of Rhinecliff Road. *Views from the Hudson* are primarily of the bluffs, which rise along the shoreline. There are no major focal points" (NYSDOS, 1993, p. 204) (emphasis added).

"This subunit is accessible via Rhinecliff Road and the Hudson River, but is limited to the highway and river corridors." "The bluffs along the Hudson River are highly visible *from the Hudson River*, from trains that run along the eastern shore, and *from the western shore* (NYSDOS, 1993, p. 204) (emphasis added).

The reason for inclusion of this subunit in the Estates District SASS is "because it lies between and links two distinctive subunits. The subunit has a moderate variety of fields, trees, and historic structures which are unified by the highway corridor" (NYSDOS, 1993, p. 204).

#### Rhinecliff Subunit (ED-15)

The Rhinecliff Subunit consists of the hamlet of Rhinecliff and the Hudson River. "Views from the subunit are extensive and include expanses of the Hudson River to the north

and south, the wooded bluffs of the opposite shore, the City of Kingston, and the distant Catskills, which are visible from the higher elevations in the subunit. The Rondout 2 Lighthouse in Kingston is a focal point in views from the water and eastern shore. The hamlet's tight residential street grid frames views of the Hudson. *Negative elements in the viewshed include the derelict industrial facilities on the East Kingston waterfront and the recent housing development on the riverfront slopes at Port Ewen*" (NYSDOS, 1993, p. 208) (emphasis added).

"The subunit is accessible from the hamlet streets and the Hudson River and is visible from the river, the passing railroad trains, the City of Kingston, and the Rondout 2 lighthouse. The Town-owned Rhinecliff landing attracts large numbers of boaters and other visitors wishing to get close to the Hudson River and provides access to the hamlet from the river" (NYSDOS, 1993, p. 208) (emphasis added).

The Rhinecliff subunit is included in the Estates District SASS "because it is a unique scenic and historic Hudson River landing. The Rhinecliff subunit exhibits a variety of architectural styles unified by their historic character and hamlet development pattern. Contrast is found between the hamlet, the steep bluff, and the expansive Hudson River. The subunit is both visually and physically accessible via the Hudson River, the railroad trains, and local streets and roads" (NYSDOS, 1993, p. 208).

b. Impact Assessment

In recognition of the scenic value of the coast, New York's Coastal Management Program (CMP) includes two policies which provide for the protection and enhancement of the coastal area. Policy 24 provides for the designation and protection of scenic areas of statewide significance; Policy 25 requires that proposed actions located outside of a designated SASS must protect, restore, or enhance the overall scenic quality of the coastal area. Both policies call for agencies to determine if a project would impair the scenic quality and include siting and design guidelines that are to be used to evaluate the impact of a proposed development, recognizing that each situation is unique and that the guidelines must be applied accordingly.

Whether within or outside a designated SASS, all proposed actions subject to review under Federal and State coastal acts or a Local Waterfront Revitalization Program (LWRP) must be assessed to determine whether the action could affect a scenic resource and whether the action would likely impair the scenic beauty of the scenic resource.

Policy 24 sets forth certain siting and facility-related guidelines to be used to achieve this policy, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly. To assess the potential impact of the Hudson Landing project on the Estates District SASS in an orderly manner, the consistency of the proposed project with each of the Policy 24 guidelines is discussed below.

*Guideline 1 - Siting structures and other development such as highways, power lines, and signs, back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore.*

### 1A - Impairment of Public Vistas

In defining impairment of scenic quality under this guideline, the SASS document states, "the most notable views available in the SASS are the panoramic views which include lawns or fields, the Hudson River and its shoreline, and the distant Catskill Mountains. The siting of structures in a manner that causes them to intrude upon, block, alter the composition of, or introduce discordant features into these views would impair the scenic quality of the SASS" (NYSDOS, 1993, p. 148).

An overarching criterion for evaluating the scenic quality of New York's coastal resources is *visual accessibility of the landscape to the general public* (NYSDOS, 1993, p. 2) (emphasis added).

Between the Kingston-Rhinecliff Bridge and the hamlet of Rhinecliff there is no public access to the waterfront and no vista of the Hudson River and/or Catskill Mountains from any public roads within the shoreland area. Virtually the entire shoreline (excluding the railroad right-of-way) is comprised of a series of large privately-owned parcels encompassing all or part of the historic Orlot, Leacote, Ferncliff, and Ankony estates. None of these estates are currently open to the public. In describing public accessibility, the SASS narrative states:

"The Estates District SASS is moderately accessible to the public because most of the land is in private ownership, and the railroad tracks along the Hudson River effectively cut off most access between the Hudson River and its shorelands. A number of former estates, however, are owned by the Federal and State government and operated as parks open to the public" (NYSDOS, 1993, p. 145).

The closest estates to the project site that are open to the general public are Montgomery Place, approximately 5 miles north of the project site, and Wilderstein, approximately 3 miles to the south. Visual analysis concluded that the project would not be visible from either estate (refer to the VRA, which is contained in Appendix O of the DGEIS).

The closest public view of the project site from shoreland areas within the Estates District SASS is from the Rhinecliff Landing in Rhinecliff, 1½ miles southeast of the project site, within the Rhinecliff Subunit (ED-15). As evident in the photographs contained in the VRA and as noted in the SASS document, negative elements in this viewshed contain numerous existing discordant features, including the existing tank farm on Kingston Point, the abandoned and dilapidated brickyard structures in Ponckhockie, as well as the more recent housing development on the riverfront slopes at Port Ewen. Also visible are the remnants of the former Hudson Cement manufacturing operations on the project site, including a cluster of large concrete silos which are to be dismantled and used as fill for the Hudson Landing project.

The next closest publicly-accessible view of the project site from the shoreland area is Poets Walk Park, approximately 3 miles northeast of the project site. As is evident in the photographs contained in the VRA, the Kingston-Rhinecliff Bridge, the most notable discordant feature within the Estates District SASS, dominates the view in the direction of the project site. The view of the project site from Poets Walk Park is under the bridge.

The Hudson Landing project will be directly visible from the Amtrak passenger railroad that parallels the eastern shore of the Hudson River and is located within the Estates District SASS. Approximately 30 northbound and southbound passenger trains travel this route daily. Train passengers currently enjoy extended views of the Hudson River and distant Catskill Mountains along this portion of their trip. Existing discordant elements described above are also readily visible.

The proposed project will be directly visible from the grounds of major estates, including Orlot, Leacote, Ferncliff, and Ankony, within the Astor Cove Subunit (ED-10). However, the proposed project will not be visible from any estate or park that is open to the public, or from any public road within this subunit. As such, the siting of the project will not intrude upon, block, alter the composition of, or introduce discordant features into public vistas in these upland areas.

The project will be directly visible from on-water vantage points within the Astor Cove, Rhinecliff Road, and Rhinecliff Subunits. However, in the description of views important to these subunits, the SASS document places its emphasis on views of the subunit shoreline (i.e., the eastern shore of the river) from the Hudson River and its western shorelands, rather than views of the western shoreline beyond the boundary of the Estates District SASS. The proposed project will not affect views of the SASS from the Hudson River.

The diminished importance of on-water views within the SASS is further evidenced in the SASS document's description of the Kingston-Rhinecliff Bridge. The SASS document notes that the bridge "is an undistinguished utilitarian structure that is not compatible with the historic architecture in the subunit, but it *does not significantly detract from the subunit's visual quality because it is not visible from many places in the subunit*" (NYSDOS, 1993, p. 192) (emphasis added). The bridge, in fact, is highly visible from on-water vantage points within the boundary of the SASS.

#### 1B - Impairment of Interior Views

In defining impairment of scenic quality under this guideline, the SASS document states, "interior views are less well known but equally contribute to the aesthetic significance of the landscape. They tend to be views down winding rural roads and carriage trails and glimpses of small clearings framed by vegetation. The essential character of these views is of pastoral or forested landscapes. If commercial or industrial structures or large residential structures were introduced into *these views*, they would constitute discordant features, impairing the scenic quality of the views and, consequently, the scenic quality of the SASS" (NYSDOS, 1993, p. 148) (emphasis added).

The proposed project is a mixed use residential and commercial development. However, it is located outside of the Estates District SASS and will not affect any interior view or impair the scenic quality of the SASS in this regard.

#### 1C - Project Redesign Reduces Waterfront Structures and Increases Shoreline Setback



The above-described minimal impact on public shoreline vantage points notwithstanding, the project will be visible from private properties, the passenger railroad line, and the Hudson River within the Estates District SASS. To minimize impacts on these places, the project has been substantially redesigned to greatly reduce the number of structures along the waterfront and significantly increase the shoreline setback of major project components. Under the original Preferred Plan, building development and vegetative clearing within 150 feet of the shoreline extended over much of the site's river frontage. Under the Traditional Neighborhood Plan, a 1,000-foot wide central core preservation area will be maintained along the waterfront. With the exception of a waterfront restaurant to be located near the former Hudson Cement dock, the setback of buildings in the North Cove area has been increased from 150 feet under the original Preferred Plan to 200 to 250 feet under the Traditional Neighborhood Plan. In the South Cove area, in places, buildings are within 120 feet of the river's edge. However, under the Traditional Neighborhood Plan, the developed footprint along the waterfront is reduced, resulting in additional greenspace. A detailed description of the Traditional Neighborhood Plan is provided in Section 3.19.

*Guideline 2 - Clustering or orienting structures to retain views, save open space, and provide visual organization to development.*

In defining impairment of scenic quality under this guideline, the SASS document states, "Two types of views are found within the SASS. These are: 1) panoramic views, generally including fields or lawns, the Hudson River, and its western shorelands; and 2) intimate views of a pastoral or forested nature. If care were not taken to cluster and orient structures to retain these views, discordant features would be introduced into the views, reducing their scenic quality and impairing the scenic quality of the SASS" (NYSDOS, 1993, pp. 148-149).

The Traditional Neighborhood Plan employs a neo-traditional community concept that includes higher density neighborhoods, combining home and business uses within a compact walkable community. The overarching intent of neo-traditional design is to cluster homes and businesses within a smaller footprint to minimize suburban sprawl and maximize open space while orienting development to retain and maximize views to and from the site.

The revised project layout is divided into two distinct neighborhoods, the North Cove residential/commercial center and the South Cove Neighborhood, which are visually separated by a 1,000-foot wide central core preservation area along the waterfront. This site layout results in two smaller, visually-distinct riverfront neighborhoods instead of the more continuous linear development along the waterfront originally proposed. Within each neighborhood, structures will be of a unified architectural theme and varying height to create visual organization, concentrating four-story structures within the center core of each neighborhood and radiating outward to three- and two-story structures to enhance visual organization.

*Guideline 3 - Incorporating sound, existing structures (especially historic buildings) into the overall development scheme.*

The only historically significant structures located on the project site are the abandoned and dilapidated "mule barn" building and the existing brick chimney associated with the former

Shultz Brickworks located in the northern portion of the site. As part of the Traditional Neighborhood Plan, this building will be renovated for use as a historical museum and community center within a live-work node of the North Cove Neighborhood. The restored mule barn will become a focal point for community activity. The existing brick chimney will become the focal point for a new community park located in the Town of Ulster.

*Guideline 4 - Removing deteriorated and/or degrading elements.*

The project site includes the remnants of the abandoned Hudson Cement manufacturing facility. As part of the Traditional Neighborhood Plan, all remaining industrial structures will be demolished and used as fill on site. Most notably, a bank of nine 120-foot tall by 75-foot wide cylindrical storage silos located approximately 700 feet from the river's edge on a plateau approximately 70 feet above river level will be removed. This industrial element is currently visible for an extended distance north and south on the Hudson River, as well as from the shoreline and upland locations within the Estates District SASS. Rusted and abandoned industrial equipment and demolition stockpiles scattered throughout the site will also be removed.

*Guideline 5 - Maintaining or restoring the original land form, except when changes screen unattractive elements and/or add appropriate interest.*

The project site has a long history of mining. The aggregate landscape character is jagged and scarred — a remnant and scoured landscape whose sharply disturbed appearance is reinforced by exposed rock faces often exceeding 100 feet in height. This condition is clearly perceived as mined vestiges and is plainly visible from the Hudson River and eastern shore locations. According to Kingston's LWRP, "the rock outcroppings and natural scenic qualities of the Hudson River are major assets to Kingston's waterfront" (LWRP, p. II-45). The proposed project will maintain and integrate these escarpments into the project design. In the South Cove Neighborhood portion of the site, proposed structures are specifically arranged to frame and highlight the most notable of these remaining escarpments, known as "Steep Rocks," from river and east shore views (*Figure 3.11-13b*).

*Guideline 6 - Maintaining or adding vegetation to provide interest, encourage the presence of wildlife, blend structures into the site, and obscure unattractive elements, except when selective clearing . . . creates views of coastal waters.*

The original Preferred Plan included residential development on the "Delaware Forest" ridgeline resulting in clearing of ridge top vegetation and placement of buildings that altered the visual character of the hillside. Under the Traditional Neighborhood Plan, all clearing and development on the ridgeline has been eliminated, and the "Delaware Forest" portion of the site will be preserved as undisturbed open space for visual and environmental benefit.

The original Preferred Plan also included building development and vegetative clearing within 150 feet of the shoreline over much of the site's river frontage. Under the Traditional Neighborhood Plan, a 1,000-foot wide central core preservation area will be maintained along the waterfront. With the exception of a waterfront restaurant to be located near the abandoned

Tilcon dock, the setback of buildings in the North Cove area has been increased from 150 under the original Preferred Plan to 200 to 250 feet under the Traditional Neighborhood Plan. In the South Cove area, in places, buildings are within 120 feet of the River's edge. However, under the Traditional Neighborhood Plan, the developed footprint along the waterfront is reduced, resulting in additional greenspace.

Along the shoreline, existing on-site, non-weedy vegetation will be preserved to screen or filter views of proposed waterfront and upland structures to the maximum extent practicable. In some areas, selective clearing of shoreline areas may occur to enhance views both to and from the river from public recreation areas in furtherance of the objectives of Kingston's LWRP.

*Guideline 7 - Using appropriate materials, in addition to vegetation, to screen unattractive elements.*

The proposed project is a mixed-use residential and commercial development. Beyond the use of existing vegetation described in the response to Guideline 6 above, significant project screening from the Estates District SASS cannot be achieved through traditional methods, such as fences or landscape berming. Instead, the project seeks to create a village-oriented waterfront community that, while new and clearly visible, includes clustered structures to provide visual organization and architectural diversity to provide visual interest.

The proposed project is a waterfront mixed-use development. Structures will be designed using a palette of colors and materials that help blend with the background landscape. Light colors will be avoided, while muted neutral and natural tones will be employed to the maximum extent practicable to minimize contrast and blend proposed structures with the neutral natural tones of the background landscape. The architectural concepts to be employed are described in detail in Section 3.7.2 - Project Development Guidelines.

*Guideline 8 - Using appropriate scales, forms, and materials to ensure that buildings and other structures are compatible with and add interest to the landscape.*

The Applicant recognizes that its public image and business success are directly linked to the outward appearance and quality of its facilities and grounds. Moreover, given its location along the Hudson River, the project will be developed as one of Kingston's most unique waterfront projects in furtherance of Kingston's LWRP. For these reasons, the project will incorporate sound site and architectural design principals to create a high-quality and aesthetically-pleasing human environment.

The project will include traditional architectural styles reminiscent of historic Hudson Valley design. Structures will be designed with appropriate scale and proportion to create an inviting place to live or visit. The design will maintain similar form, complimentary color schemes, and texture to maintain the image of a planned community.

Site grading will respect the positive aspects of the existing topography by utilizing existing level areas for building footprints and parking. To the degree practical, buildings will be

terraced into the hillside in an aesthetically-pleasing and functionally-logical manner to minimize unnecessary site grading and vegetative clearing.

Vegetation will be preserved in significant, recognizable masses that become an integral part of the open space system. Significant landscaping will be used to soften views to hard surface areas, to beautify the development, and to provide for passive recreation. Trees will be planted along streets and around buildings to provide shading and enhance the visual quality of the development.

The appearance of project facilities within public view will be strongly considered in overall project planning. Landscape treatment will be designed to minimize views of site infrastructure and enhance aesthetic appearance. The site will be enhanced with a unified landscape treatment creating an attractive residential and commercial streetscape. Facility entrances will include accent landscape plantings and attractive sign walls. A coordinated program of signage, lighting, and other site elements will be used throughout the project.

c. Consistency Summary

As described above, there are numerous important factors that must be considered in determining consistency. These include:

- ♦ The project site is not included within the boundary of the SASS. This omission is presumably for a reason. Considering the post-industrial and mined condition of the site, as well as its location within an urbanized area, the visual quality of this portion of the Hudson River coastal area is not distinctive.
- ♦ The historic post-industrial and mined character of the project site is described throughout the SASS document as being a significant existing discordant feature.
- ♦ An overarching criterion for evaluating the scenic quality of New York's coastal resources is *visual accessibility of the landscape to the general public*. Between the Kingston-Rhinecliff Bridge and the hamlet of Rhinecliff there is no public access to the waterfront and no vista of the Hudson River and/or Catskill Mountains from any public roads within the shoreland area. Virtually the entire shoreline (excluding the railroad right-of-way) is comprised of a series of large privately owned parcels. Where public views do exist, negative elements in the viewshed contain numerous existing discordant features, including the existing tank farm on Kingston Point, the abandoned and dilapidated brickyard structures in Ponkhockie, as well as the more recent housing development on the riverfront slopes at Port Ewen. Also visible are the remnants of the former Hudson Cement manufacturing operations on the project site, including a cluster of large concrete silos to be removed as part of the Hudson Landing project.

- ♦ The SASS document places its emphasis on views of the subunit shoreline (i.e., the eastern shore of the river) from the Hudson River and its western shorelands, rather than views of the western shoreline beyond the boundary of the Estates District SASS. The proposed project will not affect views of the SASS from the Hudson River. The diminished importance of on-water views is reinforced in the SASS document's description of the Kingston-Rhinecliff Bridge. The SASS document notes that the bridge, highly visible from the river, *"does not significantly detract from the subunit's visual quality because it is not visible from many places in the subunit."*
- ♦ The principal reason for including the Astor Cove Subunit in the SASS is the visual quality of the landscape within the subunit, rather than the distant views outward from the subunit.
- ♦ Policy 24 includes a set of siting and facility-related guidelines to be used to achieve compliance with this policy. To minimize impacts on public views from locations within the SASS, the project has been substantially redesigned to greatly reduce the number of structures along the waterfront and significantly increase the shoreline setback of major project components.

**POLICY 25 PROTECT, RESTORE, AND ENHANCE NATURAL AND MANMADE RESOURCES WHICH ARE NOT IDENTIFIED AS BEING OF STATEWIDE SIGNIFICANCE BUT WHICH CONTRIBUTE TO THE SCENIC QUALITY OF THE COASTAL AREA.**

Consistency with this policy is made under Policy 24.

**POLICY 25B PROTECT, RESTORE, AND ENHANCE THE GENERAL VISUAL QUALITY OF THE HUDSON RIVER AND RONDOUT CREEK WATERFRONTS.**

**Consistency with Siting and Facility Related Guidelines**

During the evaluation of the project's consistency with the scenic policies of the LWRP, the siting and facility-related guidelines in the LWRP were also considered. These guidelines are consistent with (and linked with) the siting and facility-related guidelines contained in Policy 24 of the State Coastal Policy described above. The guidelines are, by their nature, generic and, above all, subordinate to the existing zoning for the property. In describing the siting and facility-related guidelines, the LWRP states:

*"The following siting and facility-related guidelines are to be used to achieve these policies, recognizing that each development situation is unique and that the guidelines will have to be applied accordingly. Where the following guidelines differ from those set forth in the Kingston Zoning Regulations, the latter shall prevail" (LWRP p. III-48).*

*Guideline 1 - Siting structures and other development such as highways, power lines, and signs back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and retain views to and from the shore (see Policy 2).*

To minimize impact on the waterfront, the project has been substantially redesigned to greatly reduce the number of structures along the waterfront and significantly increase the shoreline setback of major project components. Under the original Preferred Plan, building development and vegetative clearing within 150 feet of the shoreline extended over much of the site's river frontage. Under the Traditional Neighborhood Plan, a 1,000-foot wide central core preservation area will be maintained along the waterfront. With the exception of a waterfront restaurant to be located near the former Hudson Cement dock, the setback of buildings in the North Cove area has been increased from 150 feet under the original Preferred Plan to 300 to 400 feet under the Traditional Neighborhood Plan. In the South Cove area, buildings are from 120 feet to 250 feet of the river's edge. However, under the Traditional Neighborhood Plan, the developed footprint along the waterfront is reduced, resulting in additional greenspace.

*Guideline 2 - Clustering or orienting structures to retain views, save open space, and provide visual organization to a development (see Policy 2).*

The revised project layout is divided into two distinct neighborhoods, the North Cove residential/commercial center and the South Cove Neighborhood, which are visually separated by a 1,000-foot wide central core preservation area along the waterfront. This site layout results in two smaller, visually-distinct riverfront neighborhoods instead of the more continuous linear development along the waterfront originally proposed. Within each neighborhood, structures will be of a unified architectural theme and varying height to create visual organization, concentrating four-story structures within the center core of each neighborhood and radiating outward to three- and two-story structures to enhance visual organization.

*Guideline 3 - Incorporating sound, existing structures (especially historic buildings) into the overall development scheme (see Policy 23).*

The only historically significant structures located on the project site are the abandoned and dilapidated "mule barn" building and the existing brick chimney associated with the former Shultz Brickworks located in the northern portion of the site. As part of the Traditional Neighborhood Plan, this building will be renovated for use as a historical museum and community center within a live-work node of the North Cove Neighborhood. The restored mule barn will become a focal point for community activity. The existing brick chimney will become the focal point for a new community park located in the Town of Ulster.

*Guideline 4 - Using appropriate scales, forms, and materials to ensure that buildings and other structures are compatible with, and add interest to, the landscape. More specifically, the design of all structures is to be compatible with that of surrounding structures. Compatibility shall be determined by a review of proposed (1) use of materials, (2) scale, (3) mass, (4) height, (5) color, (6) texture, and (7) location of the structure or structures on the site (see Policy 23).*

The Applicant recognizes that its public image and business success are directly linked to the outward appearance and quality of its facilities and grounds. Moreover, given its location along the Hudson River, the project will be developed as one of Kingston's most unique waterfront projects in furtherance of Kingston's LWRP. For these reasons, the project will incorporate sound site and architectural design principals to create a high-quality and aesthetically-pleasing human environment.

The project will include traditional architectural styles reminiscent of historic Hudson Valley design. Structures will be designed with appropriate scale and proportion to create an inviting place to live or visit. The design will maintain similar form, complimentary color schemes, and texture to maintain the image of a planned community.

Site grading will respect the positive aspects of the existing topography by utilizing existing level areas for building footprints and parking. To the degree practical, buildings will be terraced into the hillside in an aesthetically-pleasing and functionally-logical manner to minimize unnecessary site grading and vegetative clearing.

Vegetation will be preserved in significant, recognizable masses that become an integral part of the open space system. Significant landscaping will be used to soften views to hard surface areas, to beautify the development, and to provide for passive recreation. Trees will be planted along streets and around buildings to provide shading and enhance the visual quality of the development.

The appearance of project facilities within public view will be strongly considered in overall project planning. Landscape treatment will be designed to minimize views of site infrastructure and enhance aesthetic appearance. The site will be enhanced with a unified landscape treatment creating an attractive residential and commercial streetscape. Facility entrances will include accent landscape plantings and attractive sign walls. A coordinated program of signage, lighting, and other site elements will be used throughout the project.

A more detailed description of the aesthetic quality of the conceptual site and architectural design is provided in the Development Guidelines.

*Guideline 5 - All outdoor lighting is to be of such nature and so arranged as to preclude the diffusion of glare onto adjoining properties and streets.*

To minimize light trespass and overall luminance, the Hudson Landing project will use "best technology available" (BTA) to avoid or minimize sky glow light pollution, glare, and off-site light migration to the maximum extent practicable. The Applicant is committed to using Central Hudson Gas and Electric (CHG&E) standard decorative, acorn-style street light fixtures, consistent with fixtures found in the Historic Rondout District.

As part of the project design, the Applicant will develop lighting design guidelines and operating protocols. Primary principles to be employed include: lighting only those areas where access is required after dark, shielding areas requiring frequent night access from off-site view, turning off-lights in areas when not needed, limiting illuminance to the level necessary for safe

function, using shielding mechanisms to prevent upward light, and using low reflectance materials where practical to avoid reflected illumination. Perimeter fixtures will incorporate side shielding to direct lighting inward, away from River views and other off-site vantage points.

*Design Guidelines - The Kingston LWRP also includes recommendations for design guidelines which address issues such as signage, removal of structures, grading, landscaping and screening, parking lots, outdoor storage, commercial properties, and maintenance.*

A set of Development Guidelines have been created which will govern general community character for the project as well as architectural guidelines which will address acceptable architectural styles, building massing, roof slopes, exterior materials, window and door types, etc. In addition, the guidelines shall incorporate site plan parameters such as roadway standards, alley standards, on-street parking standards, curbs, sidewalks, street trees, lighting, signage, etc. Also, building setbacks, building heights, and general lot topologies will be defined for different residential, commercial, and mixed-use zones that will be reflected on a regulating plan within the guidelines. And lastly, development guidelines will include details which will guide development of the open space such as promenade detailing, landscaping, seating areas, signage, etc., as well as details for the upland hiking trails and overlooks. These Development Guidelines are available for review in the public repositories.

#### Consistency with the Mid-Hudson Historic Shorelands Scenic District "Scenic Zone"

In explaining the Scenic Policies, the City's LWRP document notes that Kingston's waterfront is opposite the Mid-Hudson Historic Shorelands Scenic District located in Dutchess County. Under the LWRP, Kingston's Hudson River waterfront, including the portion of the project site within 2,000 feet of the shoreline, has been identified as a "scenic zone" because of the important influence of western views on the district's scenic quality (LWRP, p. III-46). The LWRP document states,

"This zone encompasses the middle ground of views seen from the district. The development character of the scenic zone is critical to the continued scenic quality of the (MHSS) district. The visual quality of this area is also significant to the quality of views from the district. The horizon line is especially striking from the higher elevations on the eastern side of the district in Dutchess County, as on the State-maintained road system (NY Routes 9 and 9G). It is from these heights that the district's setting is comprehensively displayed, and often experienced by travelers. It should be remembered, however, that development in the scenic zone is at a significant distance from Dutchess County viewing sites and will have little visual impact on the character of western views *except for instances of large-scale development*" (emphasis added) (LWRP, p. II-34).

Recognizing that the Hudson Landing project is a large-scale development located within the "scenic zone," specific consideration must be given to its effect on views from the Mid-Hudson Historic Shorelands Scenic District. Unfortunately, the LWRP does not establish standards regarding the acceptability of views from the east side of the River. Absent of such



standards, we again look to the DEC Visual Policy for regulatory guidance on this issue. As mentioned above in the discussion of consistency with Coastal Policy 24, the DEC Policy states,

"Significant aesthetic impacts are those that may cause a diminishment of the *public enjoyment and appreciation of an inventoried resource*, or one that impairs the character or quality of such a place. Proposed large facilities by themselves should not be a trigger for a declaration of significance (emphasis added) (DEC Visual Policy, p. 5).

Under its definition of aesthetic impact, the DEC Visual Policy further states:

"Mere visibility, even startling visibility of a project proposal, should not be a threshold for decision making. Instead a project, by virtue of its visibility, must clearly interfere with or reduce the *public's enjoyment and/or appreciation of the appearance of an inventoried resource*" (emphasis added) (DEC Visual Policy, p. 9).

The closest publicly-accessible vistas in the direction of the project site from these culturally-important districts are found at the Rhinecliff Waterfront Park and boat launch, approximately 1½ miles southeast of the project site; Poets Walk Park, approximately 3 miles northeast of the project site, and from the Amtrak passenger railroad on the east shore of the river. The project will also be directly visible from on-water vantage points on the Hudson River.

The LWRP does not directly address the issues of public vs. private views. However, the importance of public views relative to development within the "scenic zone" is implied in the LWRP's scenic zone description, as shown below:

"The horizon line is especially striking from the higher elevations on the eastern side of the district in Dutchess County, *as on the State-maintained road system (NY Routes 9 and 9G)*. It is from these heights that the district's setting is comprehensively displayed, *and often experienced by travelers*" (emphasis added) (LWRP, p. II-34).

It is important to note that the Hudson Landing project will not be visible from NY Routes 9 or 9G.

Neither the DEC Visual Policy nor SEQRA establish thresholds for an unacceptable degree of visual impact. Rather, they simply require that potential visual impact on inventoried resources be identified and mitigated to the maximum extent practicable. If, after mitigation, the project clearly interferes with, or reduces, the public's enjoyment of an inventoried resource, then a significant adverse visual impact can be claimed.

As required by the DEC Visual Policy, the VRA includes a thorough evaluation of visual impact. Based on the results of this analysis and public comment, the project has been substantially redesigned (as discussed above) to reduce the number of structures along the

shoreline, increase shoreline setback for enhanced visual screening, increase visible open space, avoid visible development on ridgelines, and cluster structures to provide visual organization.

**POLICY 37 BEST MANAGEMENT PRACTICES WILL BE UTILIZED TO MINIMIZE THE NON-POINT DISCHARGE OF EXCESS NUTRIENTS, ORGANICS, AND ERODED SOILS INTO COASTAL WATERS.**

Under the revised plan, greater setbacks have been created from the Hudson River and larger areas of vegetation will be preserved to minimize erosion to coastal waters. In addition, development of this post industrial site will ultimately stabilize vast areas of highly erodible soils and stockpiles that are the remnants of past industrial activity. Lastly, a stormwater pollution prevention plan will be prepared for all new development which will minimize non point source pollutants from leaving the site.

**POLICY 38 THE QUALITY AND QUANTITY OF SURFACE WATER AND GROUNDWATER SUPPLIES WILL BE CONSERVED AND PROTECTED, PARTICULARLY WHERE SUCH WATERS CONSTITUTE THE PRIMARY OR SOLE SOURCE OF WATER SUPPLY.**

Under the revised plan, large portions of the project area have been set aside and protected to minimize impacts of the development to potential groundwater resources. In addition, to facilitate the proper development, and to preserve and protect these resources, the site has been divided into three (3) water quality protective zones. Zone 1 is defined as Lost Lake, its associated drainage channel as well as other water bodies and wetland areas within the Lost Lake recharge area, as well as a 100-foot buffer provided around these features. Zone 1 represents those portions of the project area most susceptible to direct surface water/ground water interaction. This Zone will contain the highest degree of protective measures to protect the water quality into lost lake. Zone 2 is defined as the upland areas overlying carbonate bedrock, which are also within the Lost Lake drainage basin and outside of the Zone 1 areas. Zone 2 will also contain a high degree of protection thus defining that storm water management within Zones 1 and 2 will be conducted in accordance with the NYS DEC manual section 7. Zone 3 consists of lands underlain by noncarbonated bedrock, predominantly along the Hudson River lowland and on the western side of the site. Stormwater from Zone 3 does not flow into the Lost Lake system and no special requirements above the normal phase 2 requirements are necessary.

**POLICY 44 PRESERVE AND PROTECT TIDAL AND FRESHWATER WETLANDS AND PRESERVE THE BENEFITS DERIVED FROM THEM.**

The project site contains approximately 19.78 acres of deciduous forest wetland predominantly occupying the NYSDEC wetland on the western portion of the property adjacent to NYS Route 32. Another approximately 5.5 acres of wetland consist of Emergent and Scrub wetland areas scattered throughout the site. In addition, approximately 6.2 acres of phragmites exist as well as approximately 18 acres of open water which occupy the existing quarry ponds on

the site. With the exception of a minor wetland crossing required for the development entrance from First Avenue, no other wetland impacts area contemplated for the development. In addition, the marina component which was contemplated under the original plan has been removed thus preserving the tidal wetlands and Submerged Aquatic Vegetation (SAV) beds in the Hudson River tidal area.

## VI. FINDINGS AND RECOMMENDATIONS

- A. Based on its evaluation of the consistency of the proposed Hudson Landing development with the policies set forth in the Kingston LWRP, the Heritage Area Commission finds that the proposed action is fully consistent with the LWRP and no revisions or further conditions are required. (Reference attached Heritage Area Commission LWRP Coastal Consistency Assessment Form)
- B. The Heritage Area Commission recommends that City agencies consider and utilize the evaluation set forth in Section V above in making their consistency determination as required under Section V.6 of the Waterfront Consistency Law.

# HERITAGE AREA COMMISSION VOTING RECORD

Date: 2-4-09

CERTIFIED BY: K Cook

Kate Cook, HAC Coordinator

NAME	Present	Absent	Signature	Yes	No	Abstain
Sandra Balla	✓		<i>Sandra H Balla</i>	✓		
Michael Del Priore	✓		<i>MDP</i>	✓		
Giovanna Righini						
Edwin Ford	✓		<i>Edwin Ford</i>	✓		
Ruth Baxter	✓		<i>Ruth B Baxter</i>	✓		
Patricia Courtney						
Kathy Janeczek						
Joseph Fitzgerald						
Sandra Henne	✓		<i>Sandra Henne</i>	✓		
Steven Schabot						
Nancy Donskoj	✓		<i>Nancy Donskoj</i>	✓		
TOTAL VOTE				6	-	-

HERITAGE AREA COMMISSION LWRP COASTAL CONSISTENCY ASSESSMENT  
FORM: This form is to be used in determining whether an action, located within the coastal boundary of the City of Kingston, would be consistent, to the maximum extent practicable, with the policies and purposes of the approved City of Kingston Local Waterfront Revitalization Program (LWRP) in accordance with local law #4 of the year 1992, no board, officer, office, person, or other agency shall undertake a proposed action if it has been determined to be inconsistent with the LWRP.

PART I:  
DEVELOPMENT POLICIES:

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CONSISTENT=C    CONSISTENT AS MODIFIED=M    INCONSISTENT=I

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✓ **POLICY 1:**  
RESTORE, REVITALIZE, AND REDEVELOP DETERIORATED AND UNDER-UTILIZED WATERFRONT AREAS FOR COMMERCIAL AND INDUSTRIAL, CULTURAL, RECREATIONAL, AND OTHER COMPATIBLE USES.

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✓ **POLICY 1A:**  
REDEVELOP THE FORMERLY INDUSTRIALIZED AND MINED AREAS OF THE HUDSON RIVER WATERFRONT TO INCLUDE WATER-DEPENDENT AND WATER-ENHANCED RECREATIONAL USES AND OTHER COMPATIBLE USES THAT WILL INCREASE PUBLIC ACCESS TO AND PUBLIC ENJOYMENT OF THIS AREA.

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N/A **POLICY 1B:**  
PROMOTE REPLACEMENT OF EXISTING USES WHICH DETRACT FROM THE RONDOUT CREEK WATERFRONT AND WHICH DISCOURAGE MORE APPROPRIATE DEVELOPMENT IN THIS AREA.

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✓ **POLICY 1C:**  
RESTORE AND REVITALIZE THE PREDOMINATELY RESIDENTIAL CHARACTER OF THE HISTORIC WILBUR AND PONCKHOCKIE NEIGHBORHOODS.

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**POLICY 1D:**

✓ RESTORE AND REVITALIZE THE MIXED RESIDENTIAL AND SMALL-SCALE COMMERCIAL CHARACTER OF THE HISTORIC RONDOUT NEIGHBORHOOD.

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**POLICY 1E:**

N/A RESTORE, REVITALIZE, AND REDEVELOPE THE AREA BETWEEN KINGSTON POINT AND THE EAST STRAND ALONG THE RONDOUT CREEK FOR COMMERCIAL AND RECREATIONAL WATER-DEPENDENT AND WATER ENHANCED USES THAT WILL INCREASE PUBLIC ENJOYMENT OF THIS AREA.

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✓ **POLICY 2:**

FACILITATE THE SITING OF WATER DEPENDENT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.

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✓ **POLICY 2A:**

DEVELOP NEW WATER-DEPENDENT USES ALONG THE RONDOUT CREEK AND HUDSON RIVER WATERFRONTS.

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N/A **POLICY 2B:**

PRESERVE EXISTING WATER-DEPENDENT AND WATER-ENHANCED USES.

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N/A **POLICY 2C:**

ADAPT THE MILLEN STEEL, CORNELL STEAMSHIP COMPANY AND OTHER SIMILAR HISTORIC BUILDINGS FOR USES MORE APPROPRIATE TO THEIR WATERFRONT LOCATION.

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N/A **POLICY 3:**

FURTHER DEVELOP THE STATE'S MAJOR PORTS OF ALBANY, BUFFALO, NEW YORK, OGDENSBURG, AND OSWEGO AS CENTERS OF COMMERCE AND INDUSTRY AND ENCOURAGE THE SITING IN THESE PORT AREAS, INCLUDING THOSE UNDER THE JURISDICTION OF THE STATE, PUBLIC AUTHORITIES OF LAND USE AND DEVELOPMENT WHICH IS ESSENTIAL TO OR IN SUPPORT OF THE WATERBORNE TRANSPORTATION OF CARGO AND PEOPLE.

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**POLICY 4:**

✓ STRENGTHEN THE ECONOMIC BASE OF SMALLER HARBOR AREAS BY ENCOURAGING THE DEVELOPMENT AND ENHANCEMENT OF THOSE TRADITIONAL USES AND ACTIVITIES WHICH HAVE PROVIDED SUCH AREAS WITH THEIR UNIQUE MARITIME IDENTITY.

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**POLICY 4A:**

N/A ENCOURAGE THE DEVELOPMENT AND EXPANSION OF THE TROLLEY MUSEUM INCLUDING REHABILITATION OF THE OLD RAIL TRACKS FROM THE STRAND TO KINGSTON POINT.

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**POLICY 4B:**

N/A SUPPORT THE CONTINUED GROWTH OF THE MARITIME MUSEUM ADJACENT TO THE RONDOUT CREEK AND THE LIGHTHOUSE OFF KINGSTON POINT AS A VALUABLE INSTITUTION DEVOTED TO EDUCATION THE PUBLIC ABOUT THE HUDSON RIVER AND KINGSTON'S HISTORIC HARBOR.

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**POLICY 4C:**

N/A PROMOTE PRIVATE DEVELOPMENT OF ON-SHORE FACILITIES, INCLUDING DOCKS, TO SERVE THE HUDSON RIVER TOUR BOAT INDUSTRY.

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**POLICY 5:**

✓ ENCOURAGE THE LOCATION OF DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES AND FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE.

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**POLICY 5A:**

N/A ENCOURAGE DEVELOPMENT AND ADAPTIVE RE-USE IN THE WEST STRAND, RONDOUT CREEK, AND URBAN RENEWAL AREAS WHERE THE INFRASTRUCTURE IS ADEQUATE AND UNDERUSED.

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**POLICY 5B:**

UPGRADE CERTAIN DEFICIENT INFRASTRUCTURE ELEMENTS IN THE RONDOUT, WEST STRAND AND PONCKHOCKIE NEIGHBORHOODS AND ALONG THE HUDSON RIVER.

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**POLICY 6:**

EXPEDITE PERMIT PROCEDURES IN ORDER TO FACILITATE THE SITING OF DEVELOPMENT ACTIVITIES AT SUITABLE LOCATIONS.

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**POLICY 7:**

FISH AND WILDLIFE POLICIES

SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS, AS IDENTIFIED ON THE COASTAL AREA MAP, SHALL BE PROTECTED, PRESERVED, AND WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN THEIR VIABILITY AS HABITATS.

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**POLICY 7A:**

THE RONDOUT CREEK HABITAT SHALL BE PROTECTED, PRESERVED AND WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.

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**POLICY 7B:**

THE LOCALLY IMPORTANT HABITAT AT KINGSTON POINT PARK, ALSO KNOWN AS K.E.4, SHALL BE PROTECTED, PRESERVED AND WHERE PRATICABLE, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.

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**POLICY 8:**

PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH ACCUMULATE IN THE FOOD CHAIN OR WHICH CAUSE SIGNIFICANT SUBLETHAL OR LETHAL EFFECTS ON THOSE RESOURCES.

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**POLICY 9:**

EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY INCREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCKS, AND DEVELOPING NEW RESOURCES. SUCH EFFORTS SHALL BE MADE IN A MANOR WHICH ENSURES THE PROTECTION OF RENEWABLE FISH AND WILDLIFE RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.

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**POLICY 10:**

FURTHER DEVELOP COMMERCIAL FINFISH, SHELLFISH, AND CRUSTACEAN RESOURCES IN THE COASTAL AREA BY:

- N/A
- (i) ENCOURAGING THE CONSTRUCTION OF NEW OR IMPROVEMENT OF EXISTING ON SHORE COMMERCIAL FISHING FACILITIES;
  - (ii) INCREASING MARKETING OF THE STATE'S SEAFOOD PRODUCTS; AND
  - (iii) MAINTAINING ADEQUATE STOCKS AND EXPANDING AQUACULTURE FACILITIES. SUCH EFFORT SHALL BE MADE IN A MANNER WHICH ENSURES THE PROTECTION OF SUCH RENEWABLE FISH RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.

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**POLICY 10A:**

N/A ENCOURAGE RETAIL AND WHOLESALE FISH MARKETING WITHIN THE WATERFRONT AREA.

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**POLICY 11:**

N/A FLOODING AND EROSION HAZARDS POLICIES BUILDINGS AND OTHER STRUCTURES WILL BE SITED IN THE COASTAL AREA SO AS TO MINIMIZE DAMAGE TO PROPERTY AND THE ENDANGERING OF HUMAN LIVES CAUSED BY FLOODING AND EROSION.

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**POLICY 12:**

N/A ACTIVITIES OR DEVELOPMENT IN THE COASTAL AREA WILL BE UNDERTAKEN SO AS TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION BY PROTECTING NATURAL PROTECTIVE FEATURES INCLUDING BEACHES, DUNES, BARRIER ISLANDS, AND BLUFFS. PRIMARY DUNES WILL BE PROTECTED FROM ALL ENCROACHMENTS THAT COULD IMPAIR THEIR NATURAL PROTECTIVE CAPACITY.

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**POLICY 13:**

N/A THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES SHALL BE UNDERTAKEN ONLY IF THEY HAVE A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST THIRTY YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS.

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**POLICY 13A:**

N/A BULKHEADS SHALL BE RECONSTRUCTED ALONG RONDOUT CREEK.

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**POLICY 14:**

N/A ACTIVITIES AND DEVELOPMENT INCLUDING THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES SHALL BE UNDERTAKEN SO THAT THERE WILL BE NO MEASURABLE INCREASE IN EROSION OR FLOODING AT THE SITE OF SUCH ACTIVITIES OR DEVELOPMENT AT OTHER LOCATIONS.

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**POLICY 15:**

N/A MINING, EXCAVATION, OR DREDGING IN COASTAL WATERS SHALL NOT SIGNIFICANTLY INTERFERE WITH THE NATURAL COASTAL PROCESSES WHICH SUPPLY BEACH MATERIALS TO LAND ADJACENT TO SUCH WATERS AND SHALL BE UNDERTAKEN IN A MANNER WHICH WILL NOT CAUSE AN INCREASE IN EROSION OF SUCH LAND.

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**POLICY 16:**

N/A PUBLIC FUNDS SHALL ONLY BE USED FOR EROSION PROTECTIVE STRUCTURES WHERE NECESSARY TO PROTECT HUMAN LIFE, AND NEW DEVELOPMENT WHICH REQUIRES A LOCATION WITHIN OR ADJACENT TO AN EROSION HAZARD AREA TO BE ABLE TO FUNCTION, OR EXISTING DEVELOPMENT: AND ONLY WHERE THE PUBLIC BENEFITS OUTWEIGH THE LONG-TERM MONETARY AND OTHER COSTS INCLUDING THE POTENTIAL FOR INCREASING EROSION AND ADVERSE EFFECTS ON NATURAL PROTECTIVE FEATURES.

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**POLICY 17:**

N/A WHENEVER POSSIBLE, USE NONSTRUCTURAL MEASURES TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION. SUCH MEASURES SHALL INCLUDE: (1) THE SET BACK OF BUILDINGS AND STRUCTURES; (2) THE PLANTING OF VEGETATION AND THE INSTALLATION OF SAND FENCING AND DRAINING; 3) THE RESHAPING OF BLUFFS; AND (4) THE FLOOD-PROOFING OF BUILDINGS OR THEIR ELEVATION ABOVE THE BASE FLOOD LEVEL.

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**POLICY 18:**

N/A TO SAFEGUARD THE VITAL, ECONOMIC, SOCIAL AND ENVIRONMENTAL INTERESTS OF THE STATE AND OF ITS CITIZENS, PROPOSED MAJOR ACTIONS IN THE COASTAL AREA MUST GIVE FULL CONSIDERATION TO THOSE INTERESTS, AND TO THE SAFEGUARDS WHICH THE STATE HAS ESTABLISHED TO PROTECT VALUABLE COASTAL RESOURCE AREAS.

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**PUBLIC ACCESS POLICIES**

**POLICY 19:**

PROTECT, MAINTAIN, AND INCREASE THE LEVELS AND TYPES OF ACCESS TO PUBLIC WATER RELATED RECREATION RESOURCES AND FACILITIES SO THAT THESE RESOURCES AND FACILITIES MAY BE FULLY UTILIZED BY ALL THE PUBLIC IN ACCORDANCE WITH REASONABLY ANTICIPATED PUBLIC RECREATION NEEDS AND THE PROTECTION OF HISTORIC AND NATURAL RESOURCES. IN PROVIDING SUCH ACCESS, PRIORITY SHALL BE GIVEN TO PUBLIC BEACHES, BOATING FACILITIES, FISHING AREAS, AND WATERFRONT PARKS.

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**POLICY 19A:**

PROTECT, MAINTAIN AND INCREASE LEVELS AND TYPES OF ACCESS TO KINGSTON POINT PARK AND WEST STRAND PLAZA.

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**POLICY 19B:**

PROVIDE PEDESTRIAN ACCESS TO THE LIGHTHOUSE AT KINGSTON POINT PARK.

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**POLICY 20:**

ACCESS TO THE PUBLICLY-OWNED FORESHORE AND TO THE LANDS IMMEDIATELY ADJACENT TO THE FORESHORE OR THE WATER'S EDGE THAT ARE PUBLICLY-OWNED SHALL BE PROVIDED, AND IT SHOULD BE PROVIDED IN SUCH A MANNER COMPATIBLE WITH ADJOINING USES. SUCH LANDS SHALL BE RETAINED IN PUBLIC OWNERSHIP.

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**POLICY 20A:**

PROVIDE OPPORTUNITIES FOR CONTINUOUS PUBLIC ACCESS ALONG THE RONDOUT CREEK WATERFRONT FROM WEST STRAND TO KINGSTON POINT AND TO THE HUDSON RIVER FROM KINGSTON POINT TO THE CITY LINE.

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**RECREATION POLICIES**

**POLICY 21:**

WATER DEPENDENT AND WATER ENHANCED RECREATION SHALL BE ENCOURAGED AND FACILITATED AND SHALL BE GIVEN PRIORITY OVER NON-WATER RELATED USES ALONG PRESERVATION AND ENHANCEMENT OF OTHER COASTAL RESOURCES AND TAKES INTO ACCOUNT DEMAND FOR SUCH FACILITIES. IN FACILITATING SUCH ACTIVITIES, PRIORITY SHALL BE GIVEN TO AREAS WHERE ACCESS TO THE RECREATION OPPORTUNITIES OF THE COAST CAN BE PROVIDED BY NEW OR EXISTING PUBLIC TRANSPORTATION SERVICES AND TO THOSE AREAS WHERE THE USE OF THE SHORE IS SEVERELY RESTRICTED BY EXISTING DEVELOPMENT.

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**POLICY 21A:**

✓ DEVELOP, EXPAND AND IMPROVE EXISTING PUBLIC WATER-DEPENDENT AND ENHANCED RECREATION FACILITIES ALONG THE HUDSON RIVER AND RONDOUT CREEK WATERFRONTS.

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**POLICY 21B:**

✓ ENCOURAGE THE DEVELOPMENT, EXPANSION AND IMPROVEMENT OF PRIVATE WATER-DEPENDENT AND ENHANCED RECREATION FACILITIES ALONG THE HUDSON RIVER AND RONDOUT CREEK WATERFRONTS.

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**POLICY 22:**

✓ DEVELOPMENT, WHEN LOCATED ADJACENT TO THE SHORE, SHALL PROVIDE FOR WATER-RELATED RECREATION AS A MULTIPLE USE WHENEVER SUCH RECREATIONAL USE IS APPROPRIATE IN LIGHT OF REASONABLY ANTICIPATED DEMAND FOR SUCH ACTIVITIES AND THE PRIMARY PURPOSE OF THE DEVELOPMENT.

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**HISTORIC AND SCENIC POLICIES**

**POLICY 23:**

✓ PROTECT, ENHANCE, AND RESTORE STRUCTURES, DISTRICTS, AREAS, OR SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHEOLOGY, OR CULTURE OF THE STATE, ITS COMMUNITIES, OR THE NATION.

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**POLICY 23A:**

N/A THE CHARACTER OF THE RONDOUT AND CHESTNUT STREET HISTORIC DISTRICTS SHALL BE PRESERVED WHILE ACCOMMODATING ECONOMIC GROWTH INDIVIDUAL HISTORIC STRUCTURES OUTSIDE THESE DISTRICTS SHALL BE PRESERVED IN LIKE MANNER.

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## SCENIC QUALITY POLICIES

### **POLICY 24:**

PREVENT IMPAIRMENT OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE AS IDENTIFIED ON THE COASTAL AREA MAP. IMPAIRMENT SHALL INCLUDE:

- (i) THE IRREVERSIBLE MODIFICATION OF GEOLOGICAL FORMS, THE DESTRUCTION OR REMOVAL OF STRUCTURES, WHEREVER THE GEOLOGIC FORMS, VEGETATION OR STRUCTURES ARE SIGNIFICANT TO THE SCENIC QUALITY OF AN IDENTIFIED RESOURCE; AND
- (ii) THE ADDITION OF STRUCTURES WHICH, BECAUSE OF SITING OR SCALE, WILL REDUCE IDENTIFIED VIEWS OR WHICH BECAUSE OF SCALE, FORM, OR MATERIALS WILL DIMINISH THE SCENIC QUALITY OF AN IDENTIFIED SOURCE.

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### **POLICY 25:**

PROTECT, RESTORE AND ENHANCE NATURAL AND MAN-MADE RESOURCES WHICH ARE NOT IDENTIFIED AS BEING OF STATEWIDE SIGNIFICANCE, BUT WHICH CONTRIBUTE TO THE SCENIC QUALITY OF THE COASTAL AREA.

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### **POLICY 25A:**

PROTECT, RESTORE AND ENHANCE SCENIC VIEWS OR VISTAS OF LOCAL IMPORTANCE, INCLUDING VIEW FROM HASBROUCK PARK, KINGSTON POINT, RONDOUT II LIGHTHOUSE, ISLAND DOCK, AND THE PORT EWEN SUSPENSION BRIDGE.

N/A

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### **POLICY 25B:**

PROTECT, PRESERVE AND ENHANCE THE GENERAL VISUAL QUALITY OF THE HUDSON RIVER AND RONDOUT CREEK WATERFRONTS

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## AGRICULTURAL LANDS POLICY

### **POLICY 26:**

N/A TO CONSERVE AND PROTECT AGRICULTURAL LANDS IN THE STATES COASTAL AREA, AN ACTION SHALL NOT RESULT IN A LOSS, NOT IMPAIR THE PRODUCTIVITY, OF IMPORTANT AGRICULTURAL LANDS AS IDENTIFIED ON THE COASTAL AREA MAP, IF THAT LOSS OR IMPAIRMENT WOULD ADVERSELY AFFECT THE VIABILITY OF AGRICULTURE IN AN AGRICULTURAL DISTRICT OR IF THERE IS NO AGRICULTURAL DISTRICT IN THE AREA SURROUNDING SUCH LANDS.

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## ENERGY AND ICE MANAGEMENT POLICIES

### **POLICY 27:**

N/A DECISIONS ON THE SITING AND CONSTRUCTION OF MAJOR ENERGY FACILITIES IN THE COASTAL AREA WILL BE BASED ON PUBLIC ENERGY NEEDS, COMPATIBILITY OF SUCH FACILITIES WITH THE ENVIRONMENT, AND THE FACILITIES' NEED FOR A SHOREFRONT LOCATION.

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### **POLICY 28:**

N/A ICE MANAGEMENT PRACTICES SHALL NOT DAMAGE SIGNIFICANT FISH AND WILDLIFE AND THEIR HABITATS, INCREASE SHORELINE EROSION OR FLOODING, OR INTERFERE WITH PRODUCTION OF HYDROELECTRIC POWER.

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### **POLICY 29:**

N/A ENCOURAGE THE DEVELOPMENT OF ENERGY RESOURCES ON THE OUTER CONTINENTAL SHELF, IN LAKE ERIE AND IN OTHER WATER BODIES, AND ENSURE ENVIRONMENTAL SAFETY OF SUCH ACTIVITIES.

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## WATER AND AIR RESOURCES POLICY

### **POLICY 30:**

N/A MUNICIPAL, INDUSTRIAL, AND COMMERCIAL DISCHARGE OF POLLUTANTS INCLUDING BUT NOT LIMITED TO TOXIC AND HAZARDOUS SUBSTANCES INTO COASTAL WATERS WILL CONFORM TO STATE AND NATIONAL WATER QUALITY STANDARDS.

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**POLICY 30A:**

WATER COURSES AND THE ATMOSPHERE SHOULD BE KEPT CLEAN AND POLLUTION ABATED WHERE IT NOW EXISTS.

N/A

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**POLICY 30B:**

SOURCES OF POTABLE WATER SUPPLY AND WATER TABLE SHOULD BE SAFEGUARDED.

N/A

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**POLICY 31:**

STATE COASTAL AREA POLICIES AND PURPOSES OF APPROVED LOCAL WATERFRONT REVITALIZATION PROGRAMS WILL BE CONSIDERED WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE MODIFYING WATER QUALITY STANDARDS; HOWEVER, THOSE WATERS ALREADY OVER BURDENED WITH CONTAMINANTS WILL BE RECOGNIZED AS BEING A DEVELOPMENT CONSTRAINT.

N/A

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**POLICY 32:**

ENCOURAGE THE USE ALTERNATIVE OR INNOVATIVE SANITARY WASTE SYSTEMS IN SMALL COMMUNITIES WHERE THE COSTS OF CONVENTIONAL FACILITIES ARE UNREASONABLY HIGH GIVEN THE SIZE OF THE EXISTING TAX BASE OF THESE COMMUNITIES.

N/A

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**POLICY 33:**

BEST MANAGEMENT PRACTICES WILL BE USED TO ENSURE THE CONTROL OF STORMWATER RUNOFF AND COMBINED SEWER OVERFLOWS DRAINING INTO COASTAL WATERS.

N/A

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**POLICY 33A:**

ELIMINATE COMBINED STORM AND SANITARY SEWERS WHERE FEASIBLE.

N/A

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**POLICY 33B:**

WORK TOWARD UPGRADING COMBINED STORM AND SANITARY SEWERS WHERE SEPARATE SYSTEMS ARE INFEASIBLE.

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**POLICY 34:**

DISCHARGE OF WASTE MATERIALS FROM VESSELS INTO COASTAL WATERS WILL BE LIMITED SO AS TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATIONAL AREAS, AND WATER SUPPLY AREAS.

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**POLICY 34A:**

MARINAS SHALL BE REQUIRED TO MAKE SEWAGE DISCHARGE FACILITIES ACCESSIBLE FOR USE BY THE GENERAL PUBLIC.

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**POLICY 35:**

DREDGING AND DREDGE SPOIL DISPOSAL IN COASTAL WATERS WILL BE UNDERTAKEN IN A MANNER THAT MEETS EXISTING STATE DREDGING PERMIT REQUIREMENTS AND PROTECTS SIGNIFICANT FISH AND WILDLIFE HABITATS, SCENIC RESOURCES, NATURAL PROTECTIVE FEATURES, IMPORTANT AGRICULTURAL LANDS, AND WETLANDS.

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**POLICY 36:**

ACTIVITIES RELATED TO THE SHIPMENT AND STORAGE OF PETROLEUM AND OTHER HAZARDOUS MATERIALS WILL BE CONDUCTED IN A MANNER THAT WILL PREVENT OR AT LEAST MINIMIZE SPILLS INTO COASTAL WATERS; ALL PRACTICABLE EFFORTS WILL BE UNDERTAKEN TO EXPEDITE THE CLEANUP OF SUCH DISCHARGES; AND RESTITUTION FOR DAMAGES WILL BE REQUIRED WHEN THESE SPILLS OCCUR.

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**POLICY 36A:**

ALL TANKS AND TANK FARMS SHALL BE CONTAINED BY LAND BERMS OR STRUCTURES TO PREVENT PETROLEUM OR HAZARDOUS OR OTHER STORED PRODUCTS FROM ENTERING OTHER PUBLIC OR PRIVATE LANDS OR BODIES OF WATER OR DRAINAGE COURSES OR SYSTEMS.

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**POLICY 37:**

BEST MANAGEMENT PRACTICES WILL BE UTILIZED TO MINIMIZE THE NON-  
~~PROFIT~~ DISCHARGE OF EXCESS NUTRIENTS, ORGANICS, AND ERODED  
SOILS INTO COASTAL WATERS.

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**POLICY 38:**

THE QUALITY AND QUANTITY OF SURFACE WATER AND GROUND WATER  
SUPPLIES WILL BE CONSERVED AND PROTECTED, PARTICULARLY WHERE  
SUCH WATERS CONSTITUTE THE PRIMARY OR SOLE SOURCE OF WATER  
SUPPLY.

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**POLICY 39:**

THE TRANSPORT, STORAGE, TREATMENT, AND DISPOSAL OF SOLID  
WASTES, PARTICULARLY HAZARDOUS WASTES WITHIN COASTAL AREAS  
WILL BE CONDUCTED IN SUCH A MANNER SO AS TO PROTECT  
GROUNDWATER AND SURFACE WATER SUPPLIES, SIGNIFICANT FISH AND  
WILDLIFE HABITATS, RECREATION AREAS, IMPORTANT AGRICULTURAL  
LAND, AND SCENIC RESOURCES.

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N/A **POLICY 40:**

EFFLUENT DISCHARGE FROM MAJOR STEAM ELECTRIC GENERATING AND  
INDUSTRIAL FACILITIES INTO COASTAL WATERS WILL NOT BE UNDULY  
INJURIOUS TO FISH AND WILDLIFE AND SHALL CONFORM TO STATE  
WATER QUALITY STANDARDS.

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**POLICY 41:**

LAND USE OR DEVELOPMENT IN THE COASTAL AREA WILL NOT CAUSE  
NATIONAL OR STATE AIR QUALITY STANDARDS TO BE VIOLATED.

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**POLICY 42:**

COASTAL MANAGEMENT POLICIES WILL BE CONSIDERED IF THE STATE  
RECLASSIFIED LAND AREAS PURSUANT TO THE PREVENTION OF  
SIGNIFICANT DETERIORATION REGULATIONS OF THE FEDERAL CLEAN AIR  
ACT.

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**POLICY 43:**

LAND USE OR DEVELOPMENT IN THE COASTAL AREA MUST NOT CAUSE THE GENERATION OF SIGNIFICANT AMOUNTS OF ACID RAIN PRECURSORS: NITRATES AND SULFATES.

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**POLICY 44:**

PRESERVE AND PROTECT TIDAL AND FRESHWATER WETLANDS AND PRESERVE THE BENEFITS DERIVED FROM THESE AREAS.

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POLICY #	EXPLANATION
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